

JOURNAL OF THE FLORIDA SENATE

Tuesday, June 3, 1975

The Senate was called to order by the President Pro Tempore at 9:00 a.m. A quorum present—38:

Brantley	Hair	Plante	Thomas, P.
Childers, D.	Henderson	Poston	Tobiassen
Childers, W. D.	Holloway	Renick	Trask
Deeb	Johnston	Saunders	Vogt
Dunn	Lane, J.	Sayler	Ware
Firestone	Lewis	Scarborough	Wilson
Gallen	MacKay	Sims	Winn
Glisson	McClain	Spicola	Zinkil
Gordon	Myers	Stolzenburg	
Graham	Peterson	Thomas, J.	

Excused: Senator Gallen at 4:30 p.m. until 5:30 p.m., Senator D. Lane

Prayer by the Senate Chaplain:

Eternal God, you have taught us that we shall work by the sweat of our brow and we neither shrink from the endeavor nor reject the idea. So while we work, we also pray, for we dare not work alone.

You too, our God, have your work to do and with your divine energy and the sweat of our brows we shall mutually be fruitful for the good of all mankind.

We thank you for life with its challenges and adventures. The joy of living is ours who serve, for in serving we plant the seeds of a future harvest. Teach us the expectancy of the harvest of service: the diligence to cultivate the furrows of our endeavors; the patience to await the fruition of our efforts: the ultimate joys of reaping the harvest one hundred fold.

So bless these thy servants in yet another day's ministry to humanity.

In the name of our Lord we pray. Amen.

ENROLLING REPORTS

SB 268	SB 586	SB 1359	SB 1364
SB 489	SB 587	SB 1360	
SB 585	SB 1354		

—have been enrolled, signed by the required Constitutional Officers and filed with the Governor on June 3, 1975.

Joe Brown, Secretary

SB 15	SB 100	SB 527
CS for SB 42	SB 189	SB 878
CS for SB 98	SB 294	SB 937

—have been enrolled, signed by the required Constitutional Officers and filed with the Governor on June 3, 1975.

Joe Brown, Secretary

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Holloway, by two-thirds vote SB 1309 was withdrawn from the Committee on Ways and Means and placed on the calendar.

On motion by Senator Holloway, by two-thirds vote HB 1841 was withdrawn from the Committees on Transportation and Ways and Means and placed on the calendar.

On motion by Senator Lewis, staff members of the Administrative Procedures Committee were granted privileges of the floor.

On motion by Senator Poston, by two-thirds vote HB 996 was withdrawn from the Committee on Ways and Means and placed on the calendar.

On motion by Senator Poston, unanimous consent was obtained to take up out of order—

HB 996—A bill to be entitled An act for the relief of specified individuals to compensate them for serving as grand jurors or appearing as witnesses after the term of court for which they were called had expired due to an oversight by the state attorney; providing an effective date.

—which was read the second time by title. On motion by Senator Poston, by two-thirds vote HB 996 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Brantley	Henderson	Renick	Trask
Childers, D.	Holloway	Sayler	Vogt
Childers, W. D.	Johnston	Scarborough	Ware
Dunn	Lane, J.	Sims	Wilson
Firestone	Lewis	Spicola	Winn
Gallen	MacKay	Stolzenburg	Zinkil
Gordon	McClain	Thomas, J.	
Graham	Peterson	Thomas, P.	
Hair	Poston	Tobiassen	

Nays—None

On motion by Senator P. Thomas, unanimous consent was obtained to take up out of order—

HB 1889—A bill to be entitled An act relating to the regulation of aircraft and pilots; amending s.330.46(2)(a), Florida Statutes, by redefining "class 1 aircraft" as aircraft seating in excess of 99 passengers; amending s.330.46(3), Florida Statutes, by redefining "airport" as an area designed for landing aircraft; repealing s.330.46(7), Florida Statutes, pertaining to the definition of area; amending s.330.48(2), Florida Statutes, by providing that the commission shall have authority to approve all rates and schedules; amending the introductory paragraph of s.330.49(1), and paragraphs (b) and (d), Florida Statutes, by providing that an applicant for a certificate or an extension of a certificate specify the airports it intends to serve and the proposed rates and schedules between those airports; amending s.330.49(2), Florida Statutes, by providing a fee of up to \$500 for certificate extension applications; amending s.330.49(4), Florida Statutes, by providing an annual certificate renewal fee of \$100; amending s.330.49(5), Florida Statutes, by providing for notice of applications to all persons serving airports, and providing that the commission shall take into consideration the experience of existing certificated carriers in granting new certificates; amending s.330.49(6)(h) and (i), Florida Statutes, by providing that the commission may consider the experience of certain commission certificated air carriers and public convenience and necessity in issuing a certificate; amending s.330.49(7), Florida Statutes, to provide that the commission may issue certificates with or without modifications, and that when an application is denied, an identical or similar application may not be considered for six months; amending s.330.49(8), Florida Statutes, by providing that all certificates list the airports to be served; creating s.330.491, Florida Statutes, to provide that certificated air carriers maintain a tariff on file, to authorize the commission, after hearing, to prescribe reasonable rates, to supersede rates found to be unreasonable, to authorize the commission to adopt rules governing the filing of tariffs, to provide that permanent general rate increases may not be authorized by the commission without public hearing, to provide for interim tariff changes, to prohibit carriers from charging other than approved rates; creating s.330.492, Florida Statutes, to provide for transfer of a certificate after application and approval; amending s.330.52(1), Florida Statutes, by authorizing the commission to levy a fine, suspend a certificate where holder fails to conform to the law, commission rules and regulations; providing procedure for declaring certificate dormancy; amending s.330.52(3), Florida Statutes, by authorizing the commission to grant authority to temporarily suspend or delete a certificated route or airport and providing a fee therefor; amending s.330.52(4), Florida Statutes, by authorizing the

commission to adopt rules applicable to carriers, provide for taking testimony and depositions, prescribe procedure, exercise all judicial powers, and issue writs to enforce commission orders or requirements, by authorizing the courts of this state to enjoin the illegal operation of air carriers at the instance of the commission; amending s.330.52(5), Florida Statutes, by providing that the evidentiary rules of the circuit courts shall apply to commission hearings, except as otherwise provided by commission rules; amending s.330.52(6), Florida Statutes, by authorizing parties aggrieved by actions of the commission to request reconsideration within fifteen days, deleting the requirement that the commission act on requests for reconsideration within thirty days, and providing for review of commission orders by the supreme court of Florida; providing an effective date.

—which was read the second time by title. On motion by Senator P. Thomas, by two-thirds vote HB 1889 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Brantley	Hair	Peterson	Thomas, P.
Childers, D.	Henderson	Poston	Tobiassen
Childers, W. D.	Holloway	Renick	Trask
Deeb	Johnston	Saylor	Vogt
Dunn	Lane, J.	Scarborough	Ware
Firestone	Lewis	Sims	Wilson
Gallen	MacKay	Spicola	Winn
Glisson	McClain	Stolzenburg	Zinkil
Graham	Myers	Thomas, J.	

Nays—None

On motion by Senator Myers, unanimous consent was obtained to take up out of order—

HB 937—A bill to be entitled An act relating to state-owned office buildings; providing for a fee schedule for the rental of space occupied by state agencies and other occupants in state-owned office buildings; providing an exception; providing that copies thereof be furnished to state agencies and the legislature; providing for assessment, collection and deposit of rental fees; providing an effective date.

—which was read the second time by title. On motion by Senator Myers, by two-thirds vote HB 937 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Brantley	Graham	Peterson	Thomas, P.
Childers, D.	Hair	Poston	Tobiassen
Childers, W. D.	Henderson	Renick	Trask
Deeb	Holloway	Saylor	Vogt
Dunn	Johnston	Scarborough	Ware
Firestone	Lane, J.	Sims	Wilson
Gallen	Lewis	Spicola	Winn
Glisson	McClain	Stolzenburg	
Gordon	Myers	Thomas, J.	

Nays—None

The President presiding

MESSAGES FROM THE GOVERNOR

The Governor advised that he had filed in the office of the Secretary of State CS for SB 165, CS for SB 169, Senate Bills 252, 311 and 388 which he had approved June 2.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Dempsey J. Barron, President May 30, 1975

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By the Committee on Natural Resources and Conservation and Senator Lewis—

CS for SB 1280—A bill to be entitled An act relating to the water management districts, change of boundaries; amending s.373.069(4), Florida Statutes, and the introductory paragraph of subsection (3) of said section, and adding subsections (5), (6), and (7), to said section, relating to the transfer of territories; providing for ad valorem taxing authority to the districts pursuant to constitutional amendment; providing for recommendations with respect to the transfer of territories; amending s.373.0697(4), Florida Statutes, and the introductory paragraph of said section, relating to basin taxes; adding s.-373.503(5), Florida Statutes, prescribing maximum millage rates; amending s.373.224, Florida Statutes, relating to existing permits for consumptive use of water, to conform to the change in date of the creation of the new water management districts; providing for the change of name of the Central and Southern Florida Flood Control District; directing that laws creating southwest Florida water management district and central and southern Florida flood control district be included in chapter 373, Florida Statutes; repealing section 3 of chapter 61-691, Laws of Florida; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment 1—Strike everything after the enacting clause and insert: Section 1. Subsection (4) and the introductory paragraph of subsection (3) of section 373.069, Florida Statutes, are amended to read:

373.069 Creation of water management districts.—

(3) On *December 31, 1976* ~~July 1, 1975~~, the name of Central and Southern Florida Flood Control District shall be changed to South Florida Water Management District; on *December 31, 1976* ~~July 1, 1975~~, Ridge and Lower Gulf Coast Water Management District shall cease to exist; and on *December 31, 1976* ~~July 1, 1975~~, the boundaries of the respective districts shall be changed so as to include the areas within the following boundaries:

(4) During the interim period prior to *December 31, 1976* ~~July 1, 1975~~:

(a) The department and the previously existing districts shall assist the newly created districts in becoming operational.

(b) The department shall encourage, and coordinate where appropriate, the use of interagency agreements covering the duties, responsibilities, assets, and liabilities of the districts and their respective basins relating to territories to be transferred from one district to another.

(c) The department shall assist in obtaining modification of existing obligations, duties, and responsibilities, regardless of how incurred, of the respective districts which are needed to insure orderly transfer of territory from one district to another.

(d) The department and the respective districts shall submit recommendations regarding any matters affected by such transfers to the ~~1974~~ 1976 regular session of the legislature.

Section 2. Subsection (4) of section 373.0697, Florida Statutes, is amended to read:

373.0697 Basin taxes.—The respective basins may, upon approval of the electors in such basin pursuant to s.9(b), Art. VII of the State Constitution, by resolution request the governing board of the district to levy ad valorem taxes within such basin. Upon receipt of such request, a basin tax levy shall be made by the governing board of the district to finance basin functions enumerated in s.373.0695.

(4) Tax millages authorized by the electors during the interim period prior to *December 31, 1976* ~~July 1, 1975~~ may be continued within such areas after said date, notwithstanding the fact that such area may have been transferred to another district.

Section 3. Section 373.224, Florida Statutes, is amended to read:

373.224 Existing permits.—Any permits or permit agreements for consumptive use of water executed or issued by an

existing flood control, water management, or water regulatory district pursuant to chapter 373 or chapter 378 prior to *December 31, 1976 July 1, 1973*, shall remain in full force and effect in accordance with its terms until otherwise modified or revoked as a authorized herein.

Section 4. This act shall take effect on June 30, 1975.

House Amendment 2—On page 1 in title, lines 4-25, strike all of said lines and insert: An act relating to the Florida Water Resources Act of 1972; amending s.373.069(4), Florida Statutes, and the introductory paragraph of subsection (3) of said section; amending ss.373.0697(4), 373.224, Florida Statutes; changing the effective date relating to the creation of water management districts; providing an effective date.

Senators Sayler, Lewis and Ware offered the following amendment to House Amendment 1 which was moved by Senator Sayler and failed:

Amendment 1A—On page 3, line 5, insert a new section and renumber subsequent sections:

Section 4. Section 3 of chapter 61-691, laws of Florida, is hereby repealed.

Senators Sayler, Lewis, Spicola and Ware offered the following amendment to House Amendment 2 which was moved by Senator Sayler and failed:

Amendment 2A—On page 1, line 5, after "districts" insert: repealing section 3, chapter 61-691, laws of Florida;

On motions by Senator Lewis, the Senate concurred in the House amendments to CS for SB 1280.

CS for SB 1280 passed as amended by the House amendments, was ordered engrossed and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

Mr. President	Henderson	Poston	Tobiassen
Brantley	Holloway	Renick	Trask
Childers, D.	Johnston	Saunders	Vogt
Childers, W. D.	Lane, J.	Sayler	Ware
Dunn	Lewis	Scarborough	Winn
Firestone	McClain	Sims	Zinkil
Gordon	Myers	Spicola	
Graham	Peterson	Stolzenburg	
Hair	Plante	Thomas, J.	

Nays—5

Deeb	MacKay	Thomas, P.	Wilson
Glisson			

The House of Representatives notified the President of the Senate that the Board of Managers, composed of Representatives Redman, Haben, Fortune, Ogden and Crabtree, had been appointed to deliver House Resolution No. 2334 to the Senate.

By direction of the President, the Secretary of the Senate notified the Speaker of the House of Representatives that the Senate was prepared to receive the Board of Managers for the purpose of presenting to the Senate, House Resolution No. 2334, the same being a Resolution for the impeachment of the Honorable Thomas D. O'Malley, Insurance Commissioner and Treasurer of the State of Florida.

The Board of Managers approached the door of the Senate and informed the Sergeant at Arms of its mission.

The President recognized the Sergeant at Arms who informed the President that the Board of Managers appointed by the Speaker of the House of Representatives was at the door of the Senate for the purpose of presenting House Resolution No. 2334 on behalf of the House of Representatives.

By direction of the President, the Sergeant at Arms escorted the Board of Managers to the Bar of the Senate where they were recognized by the President.

The Board of Managers reported as follows: "The Managers of the House of Representatives appointed by the Speaker of the House under and by virtue of the authority of House Resolution No. 2334 herewith submit this Resolution for the impeachment of the Honorable Thomas D. O'Malley, Insurance Commissioner and Treasurer of the State of Florida."

The roll was called and the following Senators were recorded present:

Mr. President	Graham	Peterson	Thomas, J.
Brantley	Hair	Plante	Thomas, P.
Childers, D.	Henderson	Poston	Tobiassen
Childers, W. D.	Holloway	Renick	Vogt
Deeb	Johnston	Saunders	Ware
Dunn	Lane, J.	Sayler	Wilson
Firestone	Lewis	Scarborough	Winn
Gallen	MacKay	Sims	Zinkil
Glisson	McClain	Spicola	
Gordon	Myers	Stolzenburg	

By direction of the President, the Secretary received and read the Resolution as follows:

HOUSE RESOLUTION NO. 2334

Articles of Impeachment

The following Articles of Impeachment were adopted by the House of Representatives on June 2, 1975.

Donald L. Tucker
Speaker of the House of Representatives
Allen Morris
Clerk, House of Representatives

HR 2334—A resolution of the House of Representatives of the state of Florida preferring Articles of Impeachment against Thomas D. O'Malley, as the duly elected and commissioned insurance commissioner and treasurer of the state of Florida; providing for the presentation of Articles of Impeachment to the Senate of the state of Florida requesting the trial thereof; providing for appointment of a committee of the House to manage, present and prosecute Articles of Impeachment at trial before the Senate; providing for subpoenas and compensation of witnesses.

WHEREAS, a committee of this body of the 1975 legislative session was appointed by the speaker of the house of representatives to investigate charges of official misconduct of Thomas D. O'Malley, insurance commissioner and treasurer, and make its report and recommendations to the house of representatives, and

WHEREAS, upon a finding of probable cause the house of representatives is charged with a responsibility of voting articles of impeachment, and

WHEREAS, said committee has performed its duties and filed this report recommending that said officer be impeached, NOW, THEREFORE,

Be It Resolved by the House of Representatives of the State of Florida:

Section 1. That Thomas D. O'Malley, the duly commissioned insurance commissioner and treasurer of the state of Florida, pursuant to section 20.13, Florida Statutes, has been guilty of official misconduct in office as insurance commissioner and treasurer for which he, Thomas D. O'Malley, as insurance commissioner and treasurer, should be and is hereby impeached of said office and further disqualified to hold any office of honor, trust or profit as provided by Article III, Section 17 of the Constitution of the State of Florida; the said acts so constituting official misconduct and misdemeanor in office of Thomas D. O'Malley, as insurance commissioner and treasurer, being hereinafter more particularly set forth by way of separate articles of impeachment which are hereby found and voted against said Thomas D. O'Malley, as insurance commissioner and treasurer, by two-thirds vote of the house of representatives of the state of Florida, viz.:

ARTICLES OF IMPEACHMENT

Articles of impeachment of the house of representatives of the state of Florida, in the name of themselves, and all of the people of the state of Florida against Thomas D. O'Malley who was heretofore elected, duly qualified and commissioned to serve as insurance commissioner and treasurer of the state of Florida.

ARTICLE I

That Thomas D. O'Malley, while holding the office of insurance commissioner and treasurer of the state of Florida, having been duly elected, qualified and commissioned as such officer, and while acting as such officer, was guilty of official misconduct and misdemeanor in office in the manner and form, to wit:

That Thomas D. O'Malley, insurance commissioner and treasurer of the state of Florida, on an uncertain date in the fall of 1971, did instruct E. A. Faircloth, while he was officially on duty as an employee of the Department of Insurance of the State of Florida, to solicit from J. F. Bryan, III, Chairman of the Board and President of Independent Life and Accident Insurance Company of Jacksonville, a financial contribution; that, pursuant to Thomas D. O'Malley's instruction, E. A. Faircloth requested a contribution from J. F. Bryan, III; that J. F. Bryan, III then instructed J. H. Stanley, an employee of Independent Life and Accident Insurance Company, to solicit contributions from other employees of Independent Life and Accident Insurance Company; that J. F. Bryan, III initiated the collection of contributions by giving one hundred dollars (\$100) in United States Currency to J. H. Stanley; that J. H. Stanley collected between eight hundred dollars (\$800) and one thousand dollars (\$1,000) from other employees of said company and placed it in an envelope; that J. H. Stanley traveled to Miami, Florida, where he personally delivered the currency sealed in the envelope to E. A. Faircloth; that E. A. Faircloth personally handed the contribution to Thomas D. O'Malley; that during the time period in which said currency was being solicited and received by E. A. Faircloth on behalf of Thomas D. O'Malley, the Independent Life and Accident Insurance Company had pending a request for a hearing to obtain the consent of Thomas D. O'Malley, as insurance commissioner and treasurer, for authorization for the Independent Life and Accident Insurance Company to exceed the 10 percent limitation on investment in real estate as required by s.625.0132(2), Florida Statutes, 1969, as transferred to s.625.333(2), Florida Statutes, 1973, in a matter relating to the home office building being planned for construction in Jacksonville on or about that time, a matter which required the special consent of Thomas D. O'Malley, insurance commissioner and treasurer; that said Thomas D. O'Malley, as insurance commissioner and treasurer, on or about February 18, 1972, approved said special consent investment of Independent Life and Accident Insurance Company pursuant to s.625.331, Florida Statutes; that said contribution was not compensation as provided by law; and further that said acts constituted a misdemeanor in office as provided by Section 17, Article III of the State Constitution.

ARTICLE II

That Thomas D. O'Malley, while holding the office of insurance commissioner and treasurer of the state of Florida, having been duly elected, qualified and commissioned as such officer, and while acting as such officer, was guilty of official misconduct and misdemeanor in office in the manner and form, to wit:

That Thomas D. O'Malley, on the 10th day of February, 1972, did willfully swear or affirm falsely in regard to a material matter or thing respecting which said oath or affirmation was authorized or required by law as necessary to the due and legal execution of a writing or document, in that on the 10th day of February, 1972, he did execute, and on the 14th day of February, 1972, he did file or cause to be filed with the department of state of the state of Florida, his Statement of Elected Official as Required by Chapter 111.011 Florida Statutes, wherein he, Thomas D. O'Malley, did depose and say that said Statement of Elected Official as Required by Chapter 111.011 Florida Statutes was a true, accurate and total listing of all contributions the value of which was in excess of twenty-five dollars (\$25.00) received by him, Thomas D. O'Malley, for the period July 1, 1971, to December 31, 1971, not otherwise reported as required by chapter 99, Florida Statutes; whereas, in truth and in fact as he then and there well knew, the Statement of Elected Official as Required by Chapter 111.011 Florida Statutes, executed February

10, 1972, was not a true, accurate and total listing of all contributions the value of which was in excess of twenty-five dollars (\$25.00) received by him, Thomas D. O'Malley, for the period July 1, 1971, to December 31, 1971, otherwise reported as required by chapter 99, Florida Statutes, in that said Statement of Elected Official as Required by Chapter 111.011 Florida Statutes did not reflect that on or about the 1st day of December, 1971, Thomas D. O'Malley did receive the sum in the amount of eight hundred dollars (\$800.00) to one thousand dollars (\$1,000.00), good and lawful money of the United States of America, in currency, from E. A. Faircloth, said receipt of the eight hundred dollars (\$800.00) to one thousand dollars (\$1,000.00) not being otherwise reported as required by chapter 99, Florida Statutes, contrary to the provisions of section 837.01, Florida Statutes; which acts further constitute a misdemeanor in office as provided by Section 17, Article III, of the State Constitution.

ARTICLE III

That Thomas D. O'Malley, while holding the office of insurance commissioner and treasurer of the state of Florida, having been duly elected, qualified and commissioned as such officer, and while acting as such officer, was guilty of official misconduct and misdemeanor in office in the manner and form, to wit:

That Thomas D. O'Malley, insurance commissioner and treasurer of the state of Florida, on an uncertain date in the fall of 1971, did instruct E. A. Faircloth, while he was officially on duty as an employee of the Department of Insurance of the state of Florida, to solicit from J. F. Bryan, III, Chairman of the Board and President of Independent Life and Accident Insurance Company of Jacksonville, a financial contribution; that pursuant to Thomas D. O'Malley's instruction, E. A. Faircloth requested a contribution from J. F. Bryan, III; that J. F. Bryan, III then instructed J. H. Stanley, an employee of Independent Life and Accident Insurance Company, to solicit contributions from other employees of Independent Life and Accident Insurance Company; that J. F. Bryan, III initiated the collection of contributions by giving one hundred dollars (\$100) in United States Currency to J. H. Stanley; that J. H. Stanley collected between eight hundred dollars (\$800) and one thousand dollars (\$1,000) from other employees of said company and placed it in an envelope; that J. H. Stanley traveled to Miami, Florida, where he personally delivered the currency sealed in the envelope to E. A. Faircloth; that E. A. Faircloth personally handed the contribution to Thomas D. O'Malley; that during the time period in which said currency was being solicited and received by E. A. Faircloth on behalf of Thomas D. O'Malley, the Independent Life and Accident Insurance Company had pending a request for a hearing to obtain the consent of Thomas D. O'Malley, as insurance commissioner and treasurer, for authorization for the Independent Life and Accident Insurance Company to exceed the 10 percent limitation on investment in real estate as required by s.625.0132(2), Florida Statutes, 1969, as transferred to s.625.333(2), Florida Statutes, 1973, in a matter relating to the home office building being planned for construction in Jacksonville on or about that time, a matter which required the special consent of Thomas D. O'Malley, insurance commissioner and treasurer; that said Thomas D. O'Malley, as insurance commissioner and treasurer, on or about February 18, 1972, approved said special consent investment for Independent Life and Accident Insurance Company pursuant to s.625.331, Florida Statutes; that said contribution was accepted by Thomas D. O'Malley as a gift or favor that did reasonably tend improperly to influence him in the discharge of his official duties; that the aforesaid constitutes a violation of section 112.313(1), Florida Statutes, and further constitutes a misdemeanor in office as provided by Section 17, Article III, of the State Constitution.

ARTICLE IV

That Thomas D. O'Malley, while holding the office of insurance commissioner and treasurer of the state of Florida, having been duly elected, qualified and commissioned as such officer, and while acting as such officer, was guilty of official misconduct and misdemeanor in office in the manner and form, to wit:

That Thomas D. O'Malley, duly elected and commissioned insurance commissioner and treasurer, did accept unlawful compensation, in that on December 31, 1970, Thomas D. O'Malley entered into a contractual agreement with Rick G. Ciravolo

and Bennett G. Feldman under the terms of which said Ciravolo and Feldman agreed to purchase Thomas D. O'Malley's seventy percent (70%) interest in the law firm then known as O'Malley and Ciravolo for the sum of two hundred thirty-nine thousand nine hundred ninety-nine dollars (\$239,999.00), to be paid over the course of eight years with interest at four percent per annum on the unpaid balance; that pursuant to said agreement Thomas D. O'Malley, insurance commissioner and treasurer, on diverse dates during 1971, 1972, 1973, 1974, has received and accepted payments of \$70,175, more or less, good and lawful money of the United States of America; that Thomas D. O'Malley, insurance commissioner, acting as receiver for certain insurance companies pursuant to court order, has retained the law firm of Ciravolo and Feldman, to represent him in his capacity as insurance commissioner, as receiver of certain insurance companies, to wit: First American Insurance Company, State Fire and Casualty Company, and Pan American Surety Company, resulting in payments to said law firm from the funds of said insurance companies in liquidation in the amount of thirty-four thousand two hundred twenty-two dollars and sixty-three cents (\$34,222.63); that said acts constitute compensation not otherwise authorized by law for Thomas D. O'Malley, insurance commissioner and treasurer of the state of Florida and a violation of s.838.06, Florida Statutes, and further constitute a misdemeanor in office as provided by Section 17, Article III, of the State Constitution.

ARTICLE V

That Thomas D. O'Malley, while holding the office of insurance commissioner and treasurer of the state of Florida, having been duly elected, qualified and commissioned as such officer, and while acting as such officer, was guilty of official misconduct and misdemeanor in office in the manner and form, to wit:

That Thomas D. O'Malley, duly elected and commissioned insurance commissioner and treasurer of the state of Florida, did unlawfully use his official position to secure special privileges for himself and others, in that on December 31, 1970, Thomas D. O'Malley entered into a contractual agreement with Rick G. Ciravolo and Bennett G. Feldman under the terms of which said Ciravolo and Feldman agreed to purchase Thomas D. O'Malley's seventy percent (70%) interest in the law firm then known as O'Malley and Ciravolo for the sum of two hundred thirty-nine thousand nine hundred ninety-nine dollars (\$239,999) to be paid over the course of eight years with interest at four percent per annum on the unpaid balance; that Thomas O'Malley, as insurance commissioner, and acting as receiver for certain insurance companies pursuant to court order, retained the law firm of Ciravolo and Feldman to represent him in his capacity as such insurance commissioner, as receiver of certain insurance companies, to wit: First American Insurance Company, State Fire and Casualty Company, and Pan American Surety Company, resulting in payments to said law firm from the funds of said insurance companies in liquidation in the amount of thirty-four thousand two hundred twenty-two dollars and sixty-three cents (\$34,222.63), contrary to the provisions of s.112.313(3), Florida Statutes; which acts further constitute a misdemeanor in office as provided by Section 17, Article III, of the State Constitution.

ARTICLE VI

That Thomas D. O'Malley, while holding the office of insurance commissioner and treasurer of the state of Florida, having been duly elected, qualified and commissioned as such officer, and while acting as such officer, was guilty of official misconduct and misdemeanor in office in the manner and form, to wit:

That Thomas D. O'Malley, duly elected and commissioned insurance commissioner and treasurer of the state of Florida, did have personal investments in an enterprise creating a substantial conflict between his private interests and the public interest, in that on December 31, 1970, Thomas D. O'Malley entered into a contractual agreement with Rick G. Ciravolo and Bennett G. Feldman under the terms of which said Ciravolo and Feldman agreed to purchase seventy percent (70%) interest in the law firm then known as O'Malley and Ciravolo for the sum of two hundred thirty-nine thousand nine hundred ninety-nine dollars (\$239,999), to be paid over the course of eight years with interest at four percent per annum on the unpaid balance; that Thomas D. O'Malley, as insurance commissioner, and acting as receiver for certain insurance companies pursuant

to court order, retained the law firm of Ciravolo and Feldman to represent him in his capacity as such insurance commissioner, as receiver of certain insurance companies, to wit: First American Insurance Company, State Fire and Casualty Company, and Pan American Surety Company, said acts resulting in payments to said law firm from the funds of said insurance companies in liquidation in the amount of thirty-four thousand two hundred twenty-two dollars and sixty-three cents (\$34,222.63), thereby raising a substantial conflict between his private interests and the public interests contrary to s. 112.314(2), Florida Statutes; which acts further constitute a misdemeanor in office as provided by Section 17, Article III, of the State Constitution.

ARTICLE VII

That Thomas D. O'Malley, while holding the office of insurance commissioner and treasurer of the state of Florida, having been duly elected, qualified and commissioned as such officer, and while acting as such officer, was guilty of official misconduct and misdemeanor in office in the manner and form, to wit:

That Thomas D. O'Malley, duly elected and commissioned insurance commissioner and treasurer did receive and accept unlawful compensation for the past, present or future performance, nonperformance, or violation of an act, rule or regulation that is or was incumbent upon him as a public officer to administer, respect, perform, execute or have executed, in that on December 31, 1970, Thomas D. O'Malley entered into a contractual agreement with Rick G. Ciravolo and Bennett G. Feldman under the terms of which the said Rick G. Ciravolo and Bennett G. Feldman agreed to purchase Thomas D. O'Malley's seventy percent (70%) interest in the law firm then known as O'Malley and Ciravolo for the sum of two hundred thirty-nine thousand nine hundred ninety-nine dollars (\$239,999.00), to be paid over the course of eight years with interest at four percent per annum on the unpaid balance; that pursuant to said agreement, Thomas D. O'Malley, insurance commissioner and treasurer, on diverse dates during 1971, 1972, 1973 and 1974, has received and accepted payments of seventy thousand one hundred seventy-five dollars (\$70,175.00), more or less, good and lawful money of the United States of America, which was compensation not authorized by law for the insurance commissioner and treasurer of the state of Florida to receive; that on July 26, 1972, Thomas D. O'Malley had submitted to him for his approval Peninsular Life Insurance Company's plan for the proposed formation of the McMillen Corporation, a holding company to hold 100% of the shares of Peninsular Life Insurance Company; that Thomas D. O'Malley did withhold his approval of the said plan, while staff of the department of insurance had given their approval, on an uncertain date in August or September, 1972; that after the retention of Bennett G. Feldman as counsel for Peninsular Life Insurance Company on November 1, 1972, for a fee of ten thousand dollars (\$10,000.00) plus out-of-pocket expenses to be paid by Peninsular Life Insurance Company; that Thomas D. O'Malley approved said plan November 8, 1972; that said compensation is not otherwise authorized by law for the insurance commissioner and treasurer of the state of Florida; that said acts constitute a violation of s.838.06, Florida Statutes, and further constitute a misdemeanor in office as provided by Section 17, Article III, of the State Constitution.

ARTICLE VIII

That Thomas D. O'Malley, while holding the office of insurance commissioner and treasurer of the state of Florida, having been duly elected, qualified and commissioned as such officer, and while acting as such officer, was guilty of official misconduct and misdemeanor in office in the manner and form, to wit:

That Thomas D. O'Malley, duly elected and commissioned insurance commissioner and treasurer of the state of Florida, used his official position to secure special privileges or exemptions for himself or others in that, on diverse dates beginning in August, or thereabouts, in 1971 and continuing through 1972, he did accept a gift, to wit: a one-eighth proprietary interest in that parcel of land, leasehold interests and structures commonly described as the Fort Walton Square Shopping Center located in Fort Walton Beach, Florida, from Horace Drew; that while part-owner of the shopping center, Thomas D. O'Malley, as insurance commissioner, approved a special consent investment pursuant to s.625.331, Florida Statutes, to wit: a second lien mortgage commonly known as a "wrap-around" mortgage which was pledged as security on the said shopping center and

sought by Thomas D. O'Malley, Drew and other partners, the mortgagors, together with Gulf Life Insurance Company, the mortgagee; which acts constitute a violation of s.112-313(3), Florida Statutes, and further constitute a misdemeanor in office as provided by Section 17, Article III, of the State Constitution.

ARTICLE IX

That Thomas D. O'Malley, while holding the office of insurance commissioner and treasurer of the state of Florida, having been duly elected, qualified and commissioned as such officer, and while acting as such officer, was guilty of official misconduct and misdemeanor in office in the manner and form, to wit:

That Thomas D. O'Malley, duly elected and commissioned insurance commissioner and treasurer of the state of Florida, accepted unlawful compensation in that, on diverse dates beginning in August, or thereabouts, in 1971 and continuing through 1972, did accept a gift, to wit: a one-eighth proprietary interest in that parcel of land, leasehold interests and structures commonly described as the Fort Walton Square Shopping Center, located in Fort Walton Beach, Florida, from Horace Drew; that while part-owner of the shopping center, Thomas D. O'Malley, as insurance commissioner, approved a special consent investment pursuant to s.625.331, Florida Statutes, to wit: a second lien mortgage commonly known as a "wrap-around" mortgage which was pledged as security on the said shopping center and sought by Thomas D. O'Malley, Drew and other partners, the mortgagors, together with Gulf Life Insurance Company, the mortgagee; that an agreement was negotiated that, if the "wrap-around" mortgage was approved, the mortgagor and the mortgagee would share equally pursuant to an agreement to govern the interest savings; that while part-owner and contracting party to the agreement, Thomas D. O'Malley granted the special consent for the "wrap-around" mortgage, thus granting the financial savings of the interest to himself, Drew and other partners, said act providing compensation not authorized by law, which act constitutes a violation of s.838.06, Florida Statutes, and further constitutes a misdemeanor in office as provided by Section 17, Article III, of the State Constitution.

ARTICLE X

That Thomas D. O'Malley, while holding office of insurance commissioner and treasurer of the state of Florida, having been duly elected, qualified and commissioned as such officer, and while acting as such officer, was guilty of official misconduct and misdemeanor in office in the manner and form, to wit:

That Thomas D. O'Malley, in the County of Leon, state of Florida, on the 10th day of February, 1972, and on the 15th day of August, 1972, having been first duly sworn by a notary public authorized by law to administer oaths, did willfully swear or affirm falsely in regard to a material matter or thing respecting which said oath or affirmation was authorized or required by law as necessary to the due and legal execution of a writing or document, in that on the 10th day of February, 1972 and on the 15th day of August, 1972, he did execute and file or cause to be filed with the department of state of the state of Florida his Statement of Elected Official as Required by Chapter 111.011 Florida Statutes, wherein he, Thomas D. O'Malley, having been first duly sworn by a notary public, did depose and say that said Statement of Elected Official as Required by Chapter 111.011 Florida Statutes was a true, accurate and total listing of all contributions the value of which was in excess of twenty-five dollars (\$25.00) received by him, Thomas D. O'Malley, for the period July 1, 1971, to December 31, 1971, and January 1, 1972, to June 30, 1972, not otherwise reported as required by chapter 99, Florida Statutes; whereas, in truth and in fact as he then and there well knew, the Statement of Elected Official as Required by Chapter 111.011 Florida Statutes, sworn and executed February 10, 1972, and August 15, 1972, was not a true, accurate and total listing of all contributions the value of which was in excess of twenty-five dollars (\$25.00) received by him, Thomas D. O'Malley, for the period July 1, 1971, to December 31, 1971, and January 1, 1972 to August 15, 1972, not otherwise reported as required by chapter 99, Florida Statutes, in that said Statement of Elected Official as Required by Chapter 111.011 Florida Statutes did not reflect that on diverse dates beginning in August or thereabouts in 1971, and continuing through 1972, Thomas D. O'Malley did accept a gift, to wit: a one-eighth (1/8) proprietary interest in that parcel of land, lease hold interests and

structures commonly described as the Fort Walton Square Shopping Center located in Fort Walton Beach, Florida, from Horace Drew and Betty B. Drew, said receipt of a gift the value of which was in excess of twenty-five dollars (\$25.00) not being otherwise reported as required by chapter 99, Florida Statutes, which act constitutes a violation of the provisions of section 117.03, Florida Statutes, and further constitutes a misdemeanor in office as provided by Section 17, Article III, of the State Constitution.

ARTICLE XI

That Thomas D. O'Malley, while holding office of insurance commissioner and treasurer of the state of Florida, having been duly elected, qualified and commissioned as such officer, and while acting as such officer, was guilty of official misconduct and misdemeanor in office in the manner and form, to wit:

That the foregoing acts of Thomas D. O'Malley described in Articles I through X, the contents of which are hereby incorporated herein and made a part hereof by reference, constitute a misdemeanor in office as provided by Section 17, Article III of the State Constitution.

WHEREFORE, Thomas D. O'Malley as Insurance Commissioner and Treasurer of the state of Florida, was and is guilty of misconduct and misdemeanors in said office.

Section 2. That Thomas D. O'Malley as Insurance Commissioner and Treasurer of the state of Florida, be impeached of his office for misconduct and misdemeanors in office.

Section 3. That Representatives Ralph Haben and Granville Crabtree shall serve on a board of managers, and Representative James L. Redman shall serve as chairman of the board of managers; and that Representatives Carl Ogden and Edmond Fortune shall be alternate members of the board of managers and shall serve at the pleasure of the chairman.

Section 4. That the board of managers are hereby instructed to appear before the Senate of the state of Florida and at the bar thereof in the name of the House of Representatives of the state of Florida, to impeach the said Thomas D. O'Malley, for misconduct and misdemeanors in office, and to exhibit to the Senate the foregoing articles of impeachment against Thomas D. O'Malley, which have been agreed upon by the House, and that the managers request that the Senate issue an order for the appearance of Thomas D. O'Malley before the Senate to answer articles of impeachment, and demand his impeachment, conviction, removal and disqualification to hold any office of honor, trust or profit.

Section 5. That the said board of managers shall manage, present and prosecute the foregoing articles of impeachment at the trial in the Senate.

Section 6. That said board of managers be and it is hereby authorized to issue subpoenas and subpoenas duces tecum requiring appearance of witnesses at said impeachment trial, which witnesses shall receive the compensation provided by law.

The President thanked the Board of Managers for delivering the Articles of Impeachment and requested them to inform the House of Representatives that the Articles were received, filed and read, and that the Senate would carry out its constitutional duties.

(This portion of the Journal and all actions relating to the Court of Impeachment undertaken by the Senate this day will be published in a separate Journal.)

MESSAGES FROM THE HOUSE, CONTINUED

The Honorable Dempsey J. Barron, President

June 3, 1975

I am directed to inform the Senate that the House of Representatives requests the return of HCR 529.

Allen Morris, Clerk

On motion by Senator W. D. Childers, HCR 529 was returned to the House as requested.

The Honorable Dempsey J. Barron, President June 3, 1975

I am directed to inform the Senate that the House of Representatives has passed SB 1059.

Allen Morris, Clerk

The Honorable Dempsey J. Barron, President June 3, 1975

I am directed to inform the Senate that the House of Representatives has passed—

CS for SB 559 CS for SB 162

Allen Morris, Clerk

The Honorable Dempsey J. Barron, President June 3, 1975

I am directed to inform the Senate that the House of Representatives has passed—

SB 1134 CS for SB 899

Allen Morris, Clerk

The Honorable Dempsey J. Barron, President June 3, 1975

I am directed to inform the Senate that the House of Representatives has passed—

SB 1127 SB 824

Allen Morris, Clerk

The Honorable Dempsey J. Barron, President June 3, 1975

I am directed to inform the Senate that the House of Representatives has passed—

SB 1378	SB 1379	SB 804
SB 1029	SB 356	SB 664

Allen Morris, Clerk

The bills contained in the above messages were ordered enrolled.

SPECIAL ORDER

CS for CS for HB 984—A bill to be entitled An act relating to education; enacting the "Public Education Act of 1975"; amending s.230.2311, Florida Statutes, 1974 Supplement; providing for early childhood and basic skills development plans; providing objectives; providing for implementation; providing for inservice training programs; amending s.228.041(19) and (25), Florida Statutes, 1974 Supplement, providing that the gifted shall be included within the definition of "exceptional student"; providing for the inclusion of certain paid and volunteer workers within the meaning of "teacher aide"; adding paragraphs (o) and (p) to s.230.23(4), Florida Statutes, 1974 Supplement, requiring adoption of plans for early childhood and basic skills development and for assignment of certain teacher aides, as feasible; amending s.231.141, Florida Statutes, encouraging the assignment of teacher aides; amending s.231.15, Florida Statutes, permitting teacher aides assisting noninstructional personnel to be noncertificated; amending s.234.02(2), Florida Statutes, 1974 Supplement, declaring general purpose urban transit systems qualified to transport children to and from school; amending s.234.041(1), Florida Statutes, to allow school buses to transport nonstudents under certain conditions; amending s.236.013(3)(c), Florida Statutes, 1974 Supplement, providing for the Department of Education to determine an equitable method of equivalent funding for alternative school-year programs; amending s.236.081, Florida Statutes, 1974 Supplement, providing for a single membership survey for programs bridging 2 fiscal years; providing for audit procedures and program reviews by the Department of Education; providing changes in the cost factors; providing for maximums for funding purposes for special programs; deleting provisions relating to a compensatory education supplement; providing for district cost differentials; providing for a district sparsity factor; providing for the computation of district required local

effort; providing for categorical programs; providing for the computation of a guaranteed minimum level of funding; providing for advertising requirements on millage by the school districts; providing restrictions on reductions in personnel; amending s.236.0811, Florida Statutes, 1974 Supplement, providing inservice training for all personnel funded through annual appropriations; adding subsection (9) to s.236.083, Florida Statutes, 1974 Supplement, providing that funds appropriated for public school transportation may be used to pay local general purpose transportation systems; amending s.237.34(3), Florida Statutes, 1974 Supplement, providing for cost reporting requirements; providing a severability clause; providing an effective date.

—was taken up with pending Amendment 3.

The motion by Senator MacKay that the Senate reconsider the vote by which Amendment 3B was adopted on June 2 was taken up and adopted. Senator Sims withdrew the amendment.

Senator Graham moved the following amendment to Amendment 3 which was adopted:

Amendment 3C—On page 23, line 4, after the word "adjusted." insert: No amount appropriated to fund the Florida Education Finance Program for fiscal year 1975-76 shall be expended for any other prior year adjustment.

Senators Ware, Sims, Dunn and Sayler offered the following amendment to Amendment 3 which was moved by Senator Ware and adopted:

Amendment 3D—On page 8, line 21, insert:

Section 7. In the selection of text books, library books and other reading material used in the public school system the standards used to determine the propriety of the material shall include:

(a) The age of the children who normally could be expected to have access to the material,

(b) The educational purpose to be served by the material,

(c) The degree to which the material would be supplemented and explained by mature classroom instruction as part of a normal classroom instructional program.

No books or other material containing hard-core pornography or otherwise prohibited by Florida Statute 847.012, shall be used in the public school system of the State of Florida.

Senator J. Thomas moved the following amendment to Amendment 3 which was adopted:

Amendment 3E—On page 25, between lines 13 and 14 insert:

(9) **REDUCTION IN PERSONNEL**.—If a reduction in personnel becomes necessary to bring operating costs and expense within the amounts appropriated and available, it is hereby mandated that in no event shall the administrator-teacher ratio in any school district during the school year 1975-1976 be greater than the administrator-teacher ratio in effect in that school district during the year 1974-75.

Senators Spicola and Plante offered the following amendment to Amendment 3 which was moved by Senator Spicola and adopted:

Amendment 3F—On page 43, line 1, insert new section 29 and renumber subsequent sections:

Section 29. Nothing in this act shall in any way be construed to increase those school millage levies as provided for in s.236.25(1), Florida Statutes, 1974 Supplement.

Senator Sims moved the following amendment to Amendment 3 which was adopted:

Amendment 3G—On page 11, line 10, after the period insert: Basic programs are defined to include art, music, and physical education.

Senator Poston moved the following amendment to Amendment 3 which failed:

Amendment 3H—On page 42, between lines 21 and 22, insert: Section 28. Subsection (8) of section 316.184, Florida Statutes, 1974 Supplement, is amended to read:

316.184 Establishment of school speed zones, enforcement; designation.—

(8) All flags, belts, apparel, and devices issued, supplied, or furnished to pupils or persons acting in the capacity of school safety patrols, special school police, or special police appointed to control and direct traffic at or near schools, in order to enhance the conspicuousness of such pupils or persons, shall be made from retroreflective and or fluorescent materials, visible both day and night at 300 feet to approaching motorists using lawful low-beam headlights,

Renumber subsequent sections

Senator Vogt moved the following amendment to Amendment 3 which was adopted:

Amendment 3I—On page 9, line 12, following the word "liability" insert: insofar as it may affect the distribution of state funds

Senator P. Thomas moved the following amendment to Amendment 3 which was adopted:

Amendment 3J—On page 25, line 14, insert:

Section 9. Beginning with the 1976-1977 fiscal year there shall be added to the basic amount for current operation of qualified districts a sparsity supplement which shall be computed as follows:

Sparsity Factor= 1101.8918 divided by $(2700 + \text{district sparsity index})$ — 1101

except that districts with a sparsity index of 1,000 or less shall be computed as having a sparsity index of 1,000 and districts having a sparsity index of 7,308 and above shall be computed as having a sparsity factor of zero. The district sparsity index shall be computed by dividing the total number of full-time equivalent students in all programs in the district by the number of senior high school centers in the district, not in excess of three, which centers are approved as permanent centers by a survey made by the Department of Education. Such supplement shall be funded annually as provided by law and in accordance with sparsity factors established by the Department of Education.

(renumber remaining sections)

Senator Myers moved the following amendment to Amendment 3 which failed:

Amendment 3K—On page 6, line 9, strike "~~may include~~" and insert: may include

Senators Peterson and Gordon offered the following amendment to Amendment 3 which was moved by Senator Peterson and adopted:

Amendment 3L—On page 42, between lines 21—22, insert: Section 13. Section 233.063, Florida Statutes, 1974 Supplement, is amended to read:

(Substantial rewording of section. See s.233.063, F.S., for present text.)

233.063 Instruction in operation of motor vehicles.—

(1) Beginning with the 1975-1976 school year, a course of study and instruction in the safe and lawful operation of a motor vehicle shall be made available by the district school board to any student in the secondary schools in the state. For purpose of this section, the term "motor vehicle" shall have the same meaning as in Section 320.01(a), excluding motor cycles. The course shall not be made a part of or a substitute for any of the minimum requirements for graduation.

(2) In order to make such a course available to any secondary school student, the district school board may use any one of the following procedures or any combination thereof.

(a) The board may utilize instructional personnel employed by the board.

(b) The board may contract with a commercial driving school licensed under the provisions of chapter 488.

(c) The board may contract with an instructor certified under the provisions of chapter 488.

(3)(a) School districts shall earn funds on full-time equivalent students at the appropriate basic program cost factor regardless of the method by which such courses are offered.

(b) For the purpose of financing the driver education program in the secondary schools, there shall be levied an additional 50 cents per year to the driver's license fee required by s.322.21. The additional fee shall be promptly remitted to the Department of Highway Safety and Motor Vehicles and the department shall transmit the fee to the state treasurer to be deposited in the General Revenue Fund.

(c) All moneys appropriated annually for driver education shall be allocated by the Department of Education to the districts solely for the purpose of financing a program of instruction in safe driving of motor vehicles through the public secondary schools throughout the state; however, the Department of Education may utilize 15 percent of the appropriated funds for the construction of driver education facilities in school districts.

(d) All moneys appropriated for driver education shall be administered under the direction of the Department of Education and shall be made available to the respective school boards upon certification to the state comptroller by the department based upon facts reported to it by the superintendents of the respective districts. The distribution of the funds to the respective school boards shall be in a uniform manner, reimbursing them for the expense of their driver education program to the extent that the appropriation will permit, based on the principles defined in chapter 236 so that opportunity for driver education shall be on an equal basis in all the districts.

(4) The district school board shall prescribe standards for the course required by this act and for instructional personnel directly employed by the board. Any certified instructor or licensed commercial driving school shall be deemed sufficiently qualified and shall not be required to meet any standards in lieu of or in addition to those prescribed under chapter 488.

Section 14. Section 488.04, Florida Statutes, is amended to read:

488.04 Instructors, qualifications; certificates.—No person shall receive compensation for giving instructions in the operation of motor vehicles unless such person is the holder of an instructor's certificate issued for such purpose by the Department of Highway Safety and Motor Vehicles. Such certificate shall be valid for use only in connection with the business of the driver's school or schools listed thereon by the department, or in connection with a driver education course offered by a district school board. An applicant for an instructor's certificate will be required to take special eye, written and road tests, and may be required to furnish additional proof of his qualifications and ability as an instructor.

Section 15. Section 322.111, Florida Statutes, is hereby repealed.

(Renumber subsequent sections)

Senator Plante moved the following amendment to Amendment 3 which failed:

Amendment 3M—On pages 38—41, strike all of pages 38—40 and lines 1—18 on page 41 and renumber subsequent sections.

Senator Graham moved the following amendment which was adopted:

Amendment 3N—On page 41, line 1, strike "(4)" and on line 9 strike: "(5)" and insert on line 1: (3) and on line 9: (4)

Amendment 3 as amended was adopted.

Senator Graham moved the following title amendment:

Amendment 4—Strike the title of the bill and insert: A bill to be entitled An act relating to education; enacting the

"Public Education Act of 1975"; amending s.230.2311, Florida Statutes, 1974 Supplement; providing for early childhood and basic skills development plans; providing objectives; providing for implementation; providing for inservice training programs; amending s.228.041 (19) and (25), Florida Statutes, 1974 Supplement, providing that the gifted shall be included within the definition of "exceptional student"; providing for the inclusion of certain paid and volunteer workers within the meaning of "teacher aide"; adding paragraphs (o) and (p) to s.230.23(4), Florida Statutes, 1974 Supplement, requiring adoption of plans for early childhood and basic skills development and for assignment of certain teacher aides, as feasible; amending s.231.141, Florida Statutes, encouraging the assignment of teacher aides; amending s.231.15, Florida Statutes, permitting teacher aides assisting instructional personnel to be noncertificated; amending s.236.081, Florida Statutes, 1974 Supplement; providing for computation of the basic amount to be included for current operation, providing cost factors, establishing the maximum full-time equivalent students in special programs, directing the department to project enrollments for special programs, providing for weighting for acceleration student establishing an office of educational evaluation, providing responsibilities for the office; providing for computation of compensatory education supplemental cost factor, providing for determination of district cost differentials, providing for educational training expenditures, providing for computation of district required local effort, providing for categorical programs, providing for calculation of total allocation of state funds to each district for current operation, providing a guaranteed minimum level of funding, amending s.236.0811, Florida Statutes, 1974 Supplement, providing for educational training; amending s.236.083, Florida Statutes, 1974 Supplement, adding subsection (9), to establish joint-use public transportation systems; amending Section 234.041(1), Florida Statutes, exempting persons from provisions making it unlawful to use a school bus or bus of similar color for other than the transportation of school children if the district school board authorizes such use; adding Section 236.083(9), Florida Statutes; providing that funds available for payment of student transportation services may be paid to local general purpose transportation systems for transportation of such students, amending Section 234.02(2), Florida Statutes; providing that local general purpose transportation systems are qualified to transport children to and from school; adding Section (3) to Section 234.051, Florida Statutes, requiring that general purpose transportation facilities used to transport school children shall meet standards established by the State Board of Education; amending 236.122, Florida Statutes, 1974 Supplement, providing a growth allocation for instructional materials, amending 233.14(3), Florida Statutes, 1974 Supplement, relating to specimen copies; repealing s.229.802, Florida Statutes, relating to recommendations for improvements in schools and institutions, repealing s.233.48(2), Florida Statutes, 1974 Supplement, relating to reimbursement for transportation charges; amending 233.22, F.S., 1974 Supplement, relating to requisitions of instructional materials; amending s.237.081, F.S., relating to advertising; amending 237.34(3), F.S., 1974 Supplement, relating to cost reporting; adding subsection (4) to s.237.34, F.S., 1974 Supplement, relating to program cost categories; declaring legislative intent that ad valorem taxation is an unsatisfactory method for financing schools, providing for a study of alternative methods of financing; providing for cooperation with the U.S. Commission of Education; adding subparagraph 7 to 230.23 (4) (m) 230.23, F.S., establishing a maximum amount which can be paid for an exceptional student contract; creating Section 237.35, F.S., establishing an office of educational evaluation, providing duties, providing for reports; amending s.234.082, Florida Statutes; providing that each school board shall make an annual survey and report on those hazards on or near public sidewalks, streets and highways which endanger the life or threaten the health or safety of school children; amending s.229.840, Florida Statutes; providing for a minimum allocation to each district for career education; providing for severability; providing an effective date.

Senators Spicola and Plante moved the following amendment to Amendment 4 which was moved by Senator Spicola and adopted:

Amendment 4A—On page 3, line 27, insert: providing limitation of millage levy as provided for in s.236.25(1);

Senator P. Thomas moved the following amendment to Amendment 4 which was adopted:

Amendment 4B—On page 3, line 27, insert after the semicolon: providing for a sparsity supplement to qualified school districts beginning with 1976-77 fiscal year;

Senators Ware, Sims, Dunn and Sayler offered the following amendment to Amendment 4 which was moved by Senator Ware and adopted:

Amendment 4C—On page 1, line 18, after the semicolon insert: providing standards for books used in the public school system;

Senator Peterson moved the following amendment to Amendment 4 which was adopted:

Amendment 4D—On page 1, line 18, after the semicolon insert: amending s.233.063, Florida Statutes, 1974 Supplement, providing for instruction in operation of motor vehicles; amending s.488.04, Florida Statutes, providing for validity of instructors' certificates in connection with driver education courses offered by public schools; repealing s.322.111, Florida Statutes, relating to revocation of license upon death of person signing minor's application;

Amendment 4 as amended was adopted.

Senator Poston moved the following amendments, which failed:

Amendment 5—On page 2, strike all of lines 25 and 26

Amendment 6—On page 43 before line 1, insert: Section . Subsection (2) of section 229.808, Florida Statutes, is amended to read:

229.808 Annual registration of all educational institutions with department of education.—

(2) For the purpose of organizing and maintaining this register, each individual, association, copartnership, or corporation, which designates itself as an elementary, secondary, business, technical or grade school below college level, or which gives preemployment or supplementary training in technology or in fields of trade or industry, or other institutions which offer academic, literary, or vocational training below college level, or any combination of the above, including institutions which perform the functions of the above schools through correspondence or extension, shall annually on a day designated by the Department of Education register with the department by executing and filing a registration form. The inquiries to be contained and answered in such form shall be prescribed by the department, and sufficient copies of these forms shall be furnished annually to each such institution; provided any such institution publishing an annual catalogue containing the information as required by the registration form may file copies of such catalogue in lieu of the registration form; and provided further that institutions operated by the state or political subdivisions thereof, colleges or schools accredited by the accrediting commission of business schools, or the Florida Council of Independent Schools, or by the Florida State Department of Education of schools created pursuant to the provisions of the Private School Corporation Act of 1950, chapter 622, or institutions operated by established religious bodies, or schools offering courses in in-service training given in connection with the primary purpose of the firm, person, association, partnership, or corporation and such primary purpose is not education, do not come within the provisions of this act.

On motion by Senator Graham, by two-thirds vote CS for CS for HB 984 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Graham	Peterson	Thomas, J.
Brantley	Hair	Poston	Thomas, P.
Childers, D.	Holloway	Renick	Tobiasen
Childers, W. D.	Johnston	Saunders	Trask
Dunn	Lane, J.	Sayler	Vogt
Firestone	Lewis	Scarborough	Ware
Gallen	MacKay	Sims	Winn
Glisson	McClain	Spicola	Zinkil
Gordon	Myers	Stolzenburg	

Nays—3

Henderson	Plante	Wilson
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Senator Glisson presiding

HB 1909—A bill to be entitled An act relating to fixed capital outlay projects at school plants; providing legislative intent; providing for allocation of certain moneys for such projects undertaken by district school boards, community colleges, area vocational-technical centers, Board of Trustees of the Florida School for the Deaf and the Blind of the Department of Education, and institutions under the Board of Regents of the Division of Universities of the Department of Education; providing conditions upon the financing of such projects; providing certain limitations; providing appropriations; providing for severability; providing an effective date.

—was taken up with pending amendment 3A which was withdrawn.

Substitute Amendment 3 failed.

Amendment 2 was adopted.

Senator Deeb moved the following amendment which failed:

Amendment 4—On page 1, strike lines 1 through 8

The Committee on Ways and Means offered the following title amendment which was moved by Senator Saunders:

Amendment 5—On page 1, strike lines 3—17 and insert: A bill to be entitled An act relating to education; authorizing the State Board of Education to issue bonds in accordance with the provisions of the state constitution; specifying the purposes and maximum amounts for such bonds; creating a public educational facility working capital trust fund; providing sources of funds; providing procedures for administration of the trust fund; creating Section 235.0165, Florida Statutes, authorizing exemption of a school board from the Office of Educational Facilities Construction's approval process; amending Section 235.211(2)—(5), Florida Statutes, 1974 Supplement, adding a new subsection to said section; providing for funding construction of community education facilities; amending section 235.43, Florida Statutes, to provide for the reorganization of certain functions of the Department of Education relating to facilities planning and construction amending section 236.084 (1)(h), (2)(d) and (3)(a) and (e), Florida Statutes, 1974 Supplement; providing funds for comprehensive school construction and debt service; amending paragraphs (j), (k), and (l) of subsection (2) of section 240.042, Florida Statutes, relating to the powers and duties of the Board of Regents with respect to facilities; amending section 240.141, Florida Statutes, relating to the approval of state university system facilities; amending section 215.61, Florida Statutes; implementing the provisions of subsection (a) (2) of Section 9 of Article XII of the Florida Constitution; authorizing the issuance of bonds to finance and refinance capital projects authorized by the legislature of Florida for the state system of public education; amending section 203.01, Florida Statutes, to provide semi-annual collections of the gross receipts taxes; providing for the first such payment; redesignating chapter 235 as "Educational Facilities;" providing severability; providing an effective date.

Senator Graham moved the following substitute amendment for Amendment 5 which was adopted:

Amendment 6—On page 1, strike lines 3—17 and insert: A bill to be entitled An act relating to education; authorizing the State Board of Education to issue bonds in accordance with the provisions of the state constitution; specifying the purposes and maximum amounts for such bonds; amending s.235.41, Florida Statutes, 1974 Supplement, relating to budget requests for capital outlay, to provide that requests for educational facilities construction and fixed capital outlay funds be submitted, for each level of education, through the Commissioner of Education upon the basis of a 5-year assessment of needs; amending s.235.42, Florida Statutes, 1974 Supplement, relating to educational construction and debt service, to create the Educational Facilities Working Capital Trust Fund, designating the sources of revenue to the fund, and providing for allocation to the district school boards, Division of Community Colleges, the Board of Trustees of the Florida School for the Deaf and the Blind, and Board of Regents through the Office of Educational Facilities Construction; amending Section 235.211(2)—(5), Florida Statutes, 1974 Supplement, adding a new

subsection to said section; providing for funding construction of community education facilities; amending Section 235.0165, Florida Statutes; delegating review and approval authority; amending section 203.01, Florida Statutes, to provide semi-annual collections of the gross receipts taxes; providing for the first such payment; amending s.236.084(1)(h), (i), (2)(d), and (3), Florida Statutes, 1974 Supplement, relating to the allocation of funds for school construction and debt service; modifying provisions relating to determination of unmet needs, determination of district percentage of state unfunded school plant and debt service needs, and provisions relating to student stations and special facilities; amending section 215.61, Florida Statutes; implementing the provisions of subsection (a) (2) of Section 9 of Article XII of the Florida Constitution; authorizing the issuance of bonds to finance and refinance capital projects authorized by the legislature of Florida for the state system of public education; amending s.235.31(1), Florida Statutes, 1974 Supplement, relating to bids on school building construction, to increase the maximum cost of projects as to which school boards may arrange for construction on a day labor basis; redesignating chapter 235 as "Educational Facilities;" providing severability; providing an effective date.

On motion by Senator Saunders, by two-thirds vote HB 1909 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Brantley	Hair	Plante	Thomas, P.
Childers, D.	Henderson	Poston	Trask
Childers, W. D.	Holloway	Renick	Vogt
Deeb	Johnston	Saunders	Ware
Dunn	Lane, J.	Sayler	Wilson
Firestone	Lewis	Scarborough	Winn
Gallen	MacKay	Sims	Zinkil
Glisson	McClain	Spicola	
Gordon	Myers	Stolzenburg	
Graham	Peterson	Thomas, J.	

Nays—None

By unanimous consent Senators Barron and Tobiassen were recorded as voting yeas.

The hour of adjournment having arrived, a point of order was called and the Senate recessed at 12:00 noon to reconvene at 1:00 p.m.

AFTERNOON SESSION

The Senate was called to order by Senator Lewis at 1:00 p.m. A quorum present—39:

Mr. President	Graham	Peterson	Thomas, J.
Brantley	Hair	Plante	Thomas, P.
Childers, D.	Henderson	Poston	Tobiassen
Childers, W. D.	Holloway	Renick	Trask
Deeb	Johnston	Saunders	Vogt
Dunn	Lane, J.	Sayler	Ware
Firestone	Lewis	Scarborough	Wilson
Gallen	MacKay	Sims	Winn
Glisson	McClain	Spicola	Zinkil
Gordon	Myers	Stolzenburg	

On motion by Senator Barron, the Senate proceeded to the consideration of—

EXECUTIVE BUSINESS

Senator Dunn was accorded the privileges of the well and read the following report:

Honorable Dempsey J. Barron
President, The Florida Senate
The Capitol

May 30, 1975

Dear President Barron:

The Select Committee on Executive Suspensions has investigated the facts and circumstances surrounding the suspension of Milo Irving Thomas, Jr., and does hereby advise and recommend as follows:

STATEMENT OF CASE

Milo Irving Thomas, Jr., was elected in 1972 as the Public Defender of the Third Judicial Circuit of Florida (for the counties of Taylor, Madison, Hamilton, Suwannee, Columbia, Lafayette, and Dixie), and he was holding that office on the 11th day of December, 1974, when an incident occurred which gave rise to his suspension from office pursuant to Executive Order of Suspension Number 75-5.

On January 28, 1975, the Honorable Reubin O'D. Askew as Governor of Florida issued and filed Executive Order of Suspension, EXO 75-5, by which Milo Irving Thomas, Jr., was suspended from the Office of Public Defender. A copy of the Executive Order is attached hereto as exhibit "A". Milo Irving Thomas, Jr., is now and has remained since January 28, 1975, suspended from that office.

On April 8, 1975, the President of The Florida Senate referred the suspension matter of Milo Irving Thomas, Jr., to the Select Committee on Executive Suspensions for investigation, report, and advisory recommendations, pursuant to Rule 12.7 of the Rules of The Florida Senate.

At the request of Milo Thomas, the pre-hearing conference was waived, and a final public hearing was held, pursuant to Rules of the Senate and adequate notice, on April 7, April 14, April 28, and May 16, 1975.

During the 24 hours of hearings on this suspension matter, the Select Committee heard extensive testimony from the suspended official and from 23 witnesses including all the witnesses requested to be heard by the Governor and by the suspended official.

The testimony and proceedings of the Select Committee were recorded and transcribed by a certified court reporter, and a complete copy of the transcript of testimony was made available to Milo Irving Thomas, Jr., and to the Governor.

In accordance with Senate practice, on May 12, 1975, notice was sent to all senators advising that the transcript of testimony and the original exhibits received in evidence were available for study and consideration at the office of the Secretary of the Senate and at the offices of the Select Committee, Room 216, Senate Office Building. The transcript and evidence have been available since that date.

GROUND S FOR SUSPENSION-REMOVAL

The Executive Order of Suspension charges that on December 11, 1974, in Lake City, Columbia County, Florida, Milo Irving Thomas, Jr., —while holding the office of Public Defender—committed the following unlawful acts:

- (a) That he did "... carry around with him ... a pistol without having obtained a license from the [Board of] County Commissioners of Columbia County, in violation of Florida Statute 790.05 [possession of an unlicensed firearm]," and
- (b) That he did "... pull from a concealed position from underneath his coat a deadly weapon, to wit: a pistol, which he had been carrying in said concealed manner contrary to law ... [and that he] did intentionally brandish and point said firearm at one LOUISE PERRY in a reckless, rude, careless, angry or threatening manner, not in necessary self-defense, whereby LOUISE PERRY was placed in imminent peril and fear of great bodily harm in violation of Florida Statutes 784.04 [aggravated assault], 790.01(2) [carrying a concealed firearm], 790.10 [improper exhibition of dangerous weapon], and 74.01 [bear assault]."

The Suspension Order alleged that the unlawful acts constituted "... the offenses of malfeasance, misfeasance, neglect of duty, commission of a felony, or incompetence as such offenses are used in Section 7(a) of Article IV, Florida Constitution (e.s.)," and as such constituted one or more of the constitutional grounds for suspension and removal from public office.

After careful consideration of the Suspension Order and the evidence adduced during the hearings on this matter, the Select Committee found—with respect to the alleged offenses of "malfeasance," "misfeasance," and "neglect of duty"—that the Suspension Order did not "specify facts sufficient to advise both the officer and the Senate as to the charges [of mal-

feasance, misfeasance, and neglect of duty] or the basis of the suspension" as required by Section 112.41(1), Florida Statutes. The Suspension Order contains allegations that Milo Irving Thomas committed certain misdemeanor offenses, viz., improper exhibition of a dangerous weapon, simple assault, carrying a pistol without obtaining a license, and the Order does contain allegations that these misdemeanor offenses occurred during the term of office of Mr. Thomas. The Suspension Order is devoid, however, of any specific allegation as to the particular public duty or duties of office which were or which might have been the basis of the offenses of malfeasance, misfeasance, or neglect of duty. There is no allegation, for example, that Milo Irving Thomas, Jr., committed the alleged misdemeanor offenses with the aid of or under the color of his office as public defender. Nor is there any allegation that the commission of the alleged misdemeanor offenses, under the facts of this case, constituted a willful breach of or refusal to perform a duty of the office of public defender.

It is the opinion of the Select Committee, therefore, that the allegations of the Suspension Order regarding malfeasance, misfeasance, or neglect of duty are insufficient and lacking in necessary specificity to accord fair notice to the suspended official. The Select Committee recognizes that under certain circumstances the commission of a misdemeanor could also constitute malpractice in office, but such has not been clearly alleged in this case. To comply with Section 112.04(7), Florida Statutes, and to accord to the suspended official the required constitutional notice of the charges against him, the Suspension Order must contain allegations of all the elements of the offense including an allegation that a particular public duty of office was allegedly breached either expressly or by implication in connection with the commission of a misdemeanor.

For the reasons set forth above, the Select Committee recommends that the charge that Milo Irving Thomas, Jr., committed the offenses of malfeasance, misfeasance, or neglect of duty be stricken because of the inadequacy of the Executive Order of Suspension to clearly allege all the material elements of these offenses.

Similarly, based upon the thorough review of all the evidence, the Select Committee found that there was insufficient evidence to establish even a prima facie showing that Milo Irving Thomas is "incompetent" as such term is used in Section 7(a) of Article IV of the Florida Constitution. In view of the paucity of the evidence to establish a showing of incompetence, the Select Committee recommends that the ground of "incompetence" be stricken from the Suspension Order.

The only ground upon which the suspension of Milo Irving Thomas, Jr., can be sustained is the ground of "commission of a felony." No question has been raised which suggests an inadequacy of the allegata in this regard; the Suspension Order clearly alleges that Milo Thomas committed two (2) felonies, viz., aggravated assault and carrying a concealed weapon. Aggravated assault (or assault with a deadly weapon) is defined as:

"[W]hoever assaults another with a deadly weapon without the intent to kill, shall be guilty of a felony of the third degree ..." §784.04, F.S.

The felony of carrying a concealed firearm is defined as:

"Whoever shall carry a concealed firearm on or about his person shall be guilty of a felony of the third degree ..." §790.01(2).

It follows therefore, that the principal issue of law and fact decided by the Select Committee and to be decided by the Senate is: Whether Milo Thomas committed, without legal justification, one or both of the felonies.

INCIDENT ON COURTHOUSE STEPS

According to the testimony of the witnesses—some black, some white—the racial climate in Columbia County in mid-December 1974 was characterized as "uneasy", "tense", and "volatile". The focal point of racial unrest centered around the community attitudes regarding the trial of Clyde Foster, a black, who was accused and later convicted of the first degree murder of two Lake City residents. The murder victims were white. Emotions within the black and white communities were taut.

The trial of Clyde Foster began on Monday, December 9, 1974, at the Columbia County Courthouse, with *Circuit Judge Sam Smith* presiding. The trial lasted for three days, con-

cluding at about 4:30 p.m. on December 11th when the jury returned verdicts of "guilty" of murder in the first degree.

The defendant Clyde Foster had retained his own private counsel, and the office of public defender had no responsibilities in connection with his trial. But, Milo Thomas, like many others in the Lake City community, was interested in the trial. Thomas was in the chambers of Judge Smith at the time the verdict was returned in order to comfort Mrs. Nancy McCurdy, a juror, who had been threatened by blacks during the trial of the Clyde Foster case.

At approximately 4:45 p.m. on Wednesday, December 11th, the assault victim, *Louise Perry* of Lake City, and three other blacks—*Elaine Wooldridge*, *Elizabeth Jones*, and *Sammy Davis*—were standing on the steps leading into the north entrance of the Columbia County Courthouse. Milo Thomas came out of the courthouse through the north door. He passed the group of blacks standing on the steps and proceeded down the north sidewalk and ultimately across the street to the law office of *Keith Black*.

Louise Perry testified that after Mr. Thomas passed by the group someone in the group said, "Oink, Oink," or words to that effect. According to the testimony of Elizabeth Jones, about the time Mr. Thomas had reached the end of the sidewalk, she (Elizabeth Jones) observed her sister-in-law, Emma Jones, drive by in an automobile. Emma Jones stuck her hand out of the car and gave a black power sign. It was at this point that Elizabeth Jones admits saying, "Pig, Oink, Oink" and returning the black power sign. The group began to laugh. (Elizabeth Jones further explained that she was directing the comments towards her sister-in-law, Emma Jones, whom she frequently referred to as "Fat Albert" because she was fat.)

Milo Thomas testified before the Select Committee and stated that when he walked past the group of blacks one of them said, "Pig, Pig, Pig, real low." In Thomas' testimony before the Columbia County Grand Jury, he stated "... as I came out of the door, they said 'Pig, Pig.' That didn't bother me."

Thomas proceeded to his car which was parked on the north side of the courthouse. Just as he was about to get into his car, Keith Black called to him and asked him to come over to his office which was directly across the street. Thomas went over to Black's office.

After talking with Keith Black for about ten minutes, Milo Thomas then walked from Black's office back across the street towards his car. According to Milo Thomas, just as he was about to get into his car,

"... they [the group of blacks] said, 'We'll remember that car; we'll remember that car!' I went on like I didn't hear them. I rolled the window down and was starting to get in, and they said, 'Your wife is a whore; your wife is a whore'. Going through all I've been through, and my wife and family, I said I'm not going to take any more, I am going to arrest them. . ."

Deputy Sheriff H. C. "Spanky" Harrell was standing near his patrol car and approximately 50 feet from the group of blacks. He testified that he did not hear the statements allegedly made by the blacks. Moreover, the Select Committee heard testimony from Louise Perry, Elaine Wooldridge, Sammy Davis, and Elizabeth Jones, and all of them denied making or hearing the statements attributed to them by Mr. Thomas.

Milo Thomas then left his car and proceeded to walk up the sidewalk leading into the north entrance of the courthouse. The group of blacks were still standing on or near the steps leading into the north entrance. As Thomas was approaching the group of blacks, he noticed Deputy H. C. "Spanky" Harrell. Deputy Harrell, who was uniformed and armed, was standing to the left and about 50 feet from Milo Thomas; he was leaning over the hood of his patrol car sorting some papers. When Milo Thomas was about 35 feet from the group of blacks, he yelled to Deputy Sheriff Harrell: "Sheriff come with me", or words to that effect. Thomas proceeded to make a "citizen's" arrest of the person who had called his wife a whore.

Thomas continued to proceed toward the blacks, and when he was about 20 feet from them he drew a .38 caliber revolver from a holster on his right hip. The holster and the gun had been concealed under his coat. None of the witnesses remembers seeing the pistol until Milo Thomas drew it as he approached the group of blacks. Thomas testified that he drew the weapon

for the purpose of protecting himself because he had reason to believe the blacks intended to inflict personal injury on him.

Milo Thomas "waved" the pistol at the group and stated, according to his testimony: "It's a felony. You called my wife a whore. It's a felony."

At that point, the group of blacks started "screaming and running". Elizabeth Jones, Elaine Wooldridge, and Sammy Davis ran around to the front (or west side) of the courthouse. Louise Perry "backed into" the courthouse with Milo Thomas "right on top of her."

According to Milo Thomas' testimony before the Grand Jury he "got . . . Louise Perry inside the corridor of the courthouse, and I was holding my pistol on her."

Assistant State Attorney Virlyn Willis and two special agents of the Florida Department of Criminal Law Enforcement, Richard Hoover and William Wojsko, were eye witnesses to the incident. Special Agent Wojsko testified that Milo Thomas held the revolver in his right hand with the nose of the pistol pointed directly at Louise Perry—just "inches from her face." This testimony was corroborated by the other eye witnesses.

Milo Thomas "backed" Louise Perry up against the bulletin board along the east wall of the north corridor. At this point, Louise Perry "had her hands up," and Milo Thomas kept demanding that she tell him who it was who had called his wife a whore. According to Assistant State Attorney Virlyn Willis, Milo Thomas stated: "You called my wife a whore. You called my wife a whore." Special Agent Wojsko recalled that it was at that point that Milo Thomas stated: "You tell me or else" or words to that effect. Assistant State Attorney Virlyn Willis described the condition of Louise Perry as "crying" "hysterical," "upset," and "visibly upset."

After a short struggle, involving Special Agents Hoover and Wojsko and Assistant State Attorney Virlyn Willis, Milo Thomas surrendered his pistol to Virlyn Willis. At the time the pistol was surrendered, Milo Thomas stated that he was not trying to hurt Louise Perry, but that he was, "just trying to scare her." Special Agent Wojsko escorted Milo Thomas up to the witness room to permit Mr. Thomas to "cool off."

DEFENSES RAISED BY THOMAS

Mr. Thomas testified that the justification for his use of the weapon was to protect himself and his family from threats that he had received due to an incident in a local restaurant on Tuesday, December 10. He testified that he and his wife were patrons in the restaurant when several blacks came in and with loud and raucous behavior attempted to sit beside him. He stated that he told the young black girl that she could not sit at this table because he and his wife were expecting someone. Other blacks in the restaurant became boisterous and vulgar, and one of them, later identified to be Freddie Cuffie, called his wife [Mrs. Thomas] a "white slut" and a "whore".

Mr. Thomas stated he was surprised and frightened at their rude and vulgar outburst, and that he went to the telephone and called law enforcement authorities for assistance. The law enforcement authorities arrived shortly thereafter and placed Freddie Cuffie and others under arrest; the disturbance at the restaurant ended. Three black males, Sammie Davis, Frederick Cuffie, and Trigger Woodridge, were charged and subsequently convicted of resisting arrest without violence and breach of peace.

Later in the afternoon of Tuesday, December 10th, Milo Thomas visited Circuit Judge Sam Smith, who, according to Thomas, advised him to "get a gun." Milo Thomas stated that he interpreted this statement by Judge Smith as an authorization to carry a firearm on his person for his personal protection. During testimony before the Select Committee, Thomas admitted that the "authorization" by Judge Smith was improper and of no legal effect.

Later in the evening of December 10th, Thomas received at his home several threatening and harassing telephone calls. Thomas could not identify the callers. One of the callers threatened to "blow his head off" when he walked out of his home. Another caller threatened to break his legs.

It was due to the incident in the coffee shop, the threatening and harassing telephone calls, and the fact that his wife had been called a "whore" on December 10th that Milo Thomas

claims to have been "in fear for his life and the life of his family". It was for this reason that he attempted to effect a "citizen's" arrest of the four black persons on the courthouse steps.

Numerous witnesses testified that Milo Thomas had served the public respectably in prior years, as municipal judge, state attorney, and public defender. The Select Committee found, based on the testimony of many witnesses, that Milo Thomas enjoyed a good reputation in his community, that he had been generally respected as a law-abiding and peace-loving man. Prior to the incident on the courthouse steps, Milo Thomas had had no significant problems with members of the black community. Indeed, many of the black witnesses who appeared before the Committee testified that Thomas had represented them or, in some cases, members of their immediate family. Some of the witnesses commended Thomas for his work as public defender.

CONCLUSIONS AND RECOMMENDATIONS

After hearing extensive testimony from 24 witnesses and reviewing all the evidence adduced in this matter (including the complete transcript of the testimony given before the Columbia County Grand Jury), the Select Committee makes the following findings:

(1) The crucial issue in this suspension matter is whether Milo Thomas committed—without legally sufficient justification—the felonies of "carrying a concealed weapon" (s.790.01(2), F.S.) and "aggravated assault" (s.784.04, F.S.). The Committee finds that the record is fraught with irreconcilable and material conflicts in the evidence, and—in view of the extreme mitigating factors in this case—it is the considered opinion of the Select Committee that reasonable doubt as to issues of fact should be resolved in favor of the suspended official. *The Select Committee finds, therefore, that Milo Irving Thomas, Jr., did not commit the felonies of carrying a concealed weapon and aggravated assault as alleged in the Suspension Order.*

(2) Even though the evidence is irreconcilably conflicting on the critical elements of proof of the aforesaid felonies, it is unmistakably clear that a most unfortunate incident occurred on the steps of the Columbia Courthouse on the afternoon of December 11, 1974. After a review of the evidence, it is obvious that Milo Thomas acted in an unlawful, irresponsible, and outrageous manner and that his conduct towards the blacks, especially Louise Perry, was deplorable and reprehensible. It is the unanimous and considered opinion of the Select Committee that Milo Thomas unlawfully exhibited a dangerous weapon in a rude, careless, angry, or threatening manner, in violation of s.790.10, Florida Statutes. It is further the opinion of the Committee that Milo Thomas wilfully violated s.790.05, Florida Statutes, in that he carried a pistol without having first obtained a license as required by law.

But these are misdemeanors, and the commission of misdemeanors as such do not constitute grounds for removal from public office under s.7 of Article IV of the Florida Constitution.

As set forth in the preceding parts of this report, the Suspension Order in this case does not contain any allegations which purport to connect the alleged misdemeanor conduct of Milo Thomas with his official duties as public defender. Accordingly, the constitutional grounds for suspension of malfeasance, misfeasance, and neglect of duty have not been alleged and proved in this case.

(3) *For the reasons set forth above, the Select Committee finds that the suspension of Milo Thomas based upon Executive Order of Suspension, EXO 75-5, cannot be sustained. The Select Committee is, therefore, compelled to recommend that Milo Thomas be reinstated to the Office of Public Defender of the Third Judicial Circuit.*

(4) Lest there be some misunderstanding, the Select Committee feels compelled to state that we do not condone the conduct of Milo Thomas. This conduct raises serious questions regarding his emotional stability and maturity of judgment. His apparent lack of knowledge or understanding of the law, particularly in the field of criminal law, seems inexcusable. The evidence presented to the Committee leads us to the conclusion that Milo Thomas lacks the personal qualities of mature judgment and self-control, which we feel should be minimum prerequisite qualifications of any public official. But we recog-

nize that the electorate of the Third Judicial Circuit elected him, and in light of the foregoing conclusions, it is they who must sit in final arbitration of the personal qualifications they deem important in the Office of Public Defender.

(5) The committee finds that Governor Reubin O'D. Askew, in view of the facts of this case which were known to him at the time, acted reasonably and responsibly in suspending Milo Thomas from the office of Public Defender. The action of the Governor under the facts of this case was proper and, in our opinion, justified in light of his constitutional responsibility as Governor and the facts as were known to him at the time.

(6) It is further the opinion of the committee that Attorney General Robert L. Shevin, acting as special counsel for Governor Askew in this case, should be commended. The manner in which the evidence was presented by General Shevin demonstrated a high level of trial advocacy, and a genuine dedication to the fair and expeditious resolution of the policy issues involved in this case. Similarly, we feel that the cooperation which we have received from Mr. Bill Avera and Mr. Martin Page, attorneys for Milo Thomas, has been commendable and of great assistance to the Select Committee in our efforts to find the truth in this case.

RECOMMENDATIONS

It is therefore concluded that the allegations in the Suspension Order have not been proved.

Accordingly, we recommend to the President and to the Senate that Milo Irving Thomas, Jr., be reinstated to the Office of Public Defender, Third Judicial Circuit. The Committee further recommends that no reimbursement for costs or attorney's fees be awarded.

Respectfully submitted,
EDGAR M. DUNN, JR., Chairman
GEORGE FIRESTONE, Vice Chairman
MATTOX HAIR
VERNON C. HOLLOWAY
WALTER SIMS

EXHIBIT "A"

EXECUTIVE ORDER NUMBER 75-5

Executive Order of Suspension

WHEREAS, MILO I. THOMAS, JR. is presently serving as the Public Defender of the Third Judicial Circuit in and for the Counties of Columbia, Dixie, Hamilton, Lafayette, Madison, Suwannee and Taylor, and

WHEREAS, I have been advised by citizens of Columbia county that the said MILO I. THOMAS, JR. has violated the duties and public trust of his office, and

WHEREAS, pursuant to the Constitution and laws of the State of Florida, an investigation has been made of the charges against the said MILO I. THOMAS, JR., and

WHEREAS, said investigation has revealed that on December 11, 1974 in Lake City, Florida, MILO I. THOMAS, JR., was observed by two officers of the Florida Department of Criminal Law Enforcement; that on said date MILO I. THOMAS, JR., did pull a handgun from a concealed position underneath the right side of his sport coat; that said MILO I. THOMAS, JR., then proceeded toward a group of people near the stairway of the Lake City Courthouse; that said individuals attempted to flee the area, and three of the four individuals were successful in retreating; that one LOUISE PERRY, a member of the group and resident of Lake City, was not successful in her attempt to flee; that whereupon said LOUISE PERRY screaming, and in an anguished state of mind, backed up against the doors and entered the north foyer of the courthouse with MILO I. THOMAS, JR., in immediate pursuit; whereupon MILO I. THOMAS, JR., did point said handgun at LOUISE PERRY in a threatening manner; and at this point one VIRLYN B. WILLIS, JR., Assistant State Attorney for the Third Judicial Circuit and agent WILLIAM WOJSKO of the Florida Department of Criminal Law Enforcement did after a brief struggle disarm said MILO I. THOMAS, JR., and

WHEREAS, I have found that the said MILO I. THOMAS, JR., has committed acts constituting felonies under the Laws of the State of Florida;

NOW, THEREFORE, I, REUBIN O'D. ASKEW, as Governor, pursuant to the Constitution and Laws of the State of Florida, do hereby find, determine and allege as follows:

A. That on December 11, 1974 in the County of Columbia, and the City of Lake City, MILO I. THOMAS, JR. did carry around with him or have in any county in this state a pistol without having obtained a license from the County Commissioners of Columbia County in violation of Florida Statute 790.05.

B. That on December 11, 1974 in the County of Columbia, and the City of Lake City, MILO I. THOMAS, JR., did pull from a concealed position underneath his coat a deadly weapon, to-wit: a pistol which he had been carrying in said concealed manner contrary to law and did intentionally brandish and point said firearm at one LOUISE PERRY in a reckless, rude, careless, angry or threatening manner, not in necessary self-defense whereby LOUISE PERRY was placed in imminent peril and fear of great bodily harm in violation of Florida Statutes 784.04, 790.01(2), 790.10 and 784.02.

C. That the acts and violations alleged herein all occurred during the present term of office of MILO I. THOMAS, JR., as a state officer within the meaning of Section 7, Article IV, Florida Constitution (1968), to-wit: Public Defender, Third Judicial Circuit of Florida.

D. That the said MILO I. THOMAS, JR., did commit the acts and violations of Florida law as alleged constituting grounds for suspension under Article IV, Section 7(a), Florida Constitution.

E. That the facts alleged herein constitute the offenses of malfeasance, misfeasance, neglect of duty, commission of a felony or incompetence as such offenses are used in Section 7(a), Article IV, Florida Constitution.

F. That the interest of the residents of Columbia, Dixie, Hamilton, Lafayette, Madison, Suwannee and Taylor Counties, Florida, and the citizens of the State of Florida can best be served by the immediate suspension of MILO I. THOMAS, JR., from the public office which he now holds.

Being Fully Advised in the premises, and in accordance with the Constitution and laws of the State of Florida, the following Executive Order is hereby promulgated, effective at 5 o'clock p.m. Tuesday, January 28, 1975.

1. MILO I. THOMAS, JR., is hereby suspended as and from the public office which he now holds, to-wit: Public Defender, Third Judicial Circuit.

2. That MILO I. THOMAS, JR., is hereby prohibited from performing any official act, duty or function of public office, from receiving any part or allowances, and from being entitled to any of the emoluments or privileges of public office during the period of this suspension, which period shall be from the effective date hereof, until further executive order, or as otherwise provided by law.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capital, this 28th day of January, A. D. 1975.

REUBIN O'D. ASKEW
Governor



Attest:
BRUCE A. SMATHERS
Secretary of State

The President presiding

On motion by Senator Holloway, the following communication was read and ordered spread upon the Journal:

Senate Select Committee
on Executive Suspensions
Senator Edgar M. Dunn, Jr.,
Chairman

June 2, 1975

Re: Milo I. Thomas, Jr.

Dear Senators:

It has been brought to my attention that there may be some members of the public who have followed the proceedings had in my case before the Senate Select Committee on Executive Suspensions and even, perhaps, some members of that committee who believe that I have not and do not experience any remorse or regret over the incidents which led to the Suspension Order being entered against me nor any compunction concerning the part I played in those incidents. I hope that there is no impropriety in my taking the liberty hereby to express to you that, indeed, the opposite is true.

I think the testimony presented before the committee by both the Governor and my counsel amply demonstrated that the background leading to the unfortunate events on December 11, 1974, on the steps of the Columbia County Courthouse was one fraught with high emotions on the part of all involved. "Blame" or "fault" are words which sometimes may be misapplied by any party to those events under such emotions, but the word "regret" is one which, for my part, should be applied to the entire matter, and I wish that point to be clearly understood by everyone, not just you gentlemen.

I do not think of myself as a callous person, unmindful of the feelings of my fellow man, and I am most sincerely sorry and do apologize to the public, the Florida Senate and all persons concerned that those events ever occurred and had the repercussions that have followed. Technicalities aside, I would hope that all would understand that actions taken under circumstances of cresting emotions may be a source of honest remorse when later considered in calmer environs. So this matter has been, and continues to be, with me.

I also am not unmindful that, should the Florida Senate determine to reinstate me to the office of Public Defender for the Third Judicial Circuit of Florida, the proceedings had upon the Suspension Order have necessarily been costly to the State of Florida in seeing that due process is accorded. The witness fees, reporter fees and other costs, whether incurred for the benefit of the suspended official or to present the case for the Governor, have been borne by the State of Florida. I, therefore, wish to state, not for purposes of persuasion concerning the merits of my case, but as further evidence of the truth of my sentiments set out above, that should the Florida Senate vote for my reinstatement to office (which would thereby make me entitled to all back salaries and emoluments of office from date of the Suspension Order), I shall pay to the State of Florida through an appropriate office the sum of \$1,000.00 to defray those costs so incurred.

In closing, I again want there to be no doubt in anyone's mind that my heart bears nothing but sadness and regret over the events occurring in my life on December 10 and December 11, 1974. It is my hope that all others who were part of those experiences are of like mind. I thank you gentlemen for the fair hand with which you have conducted all aspects of the proceedings had before the committee. It has been a credit to serving the intent which led to the adoption of the rules under which such cases are heard and considered.

Very Truly Yours,
MILO I. THOMAS, JR.

Senator Dunn moved that the Senate find the evidence insufficient to support the Executive Order of Suspension by the Governor, and that Milo I. Thomas, Jr. not be removed from the office of Public Defender, Third Judicial Circuit, from which he has been suspended and that he be reinstated therein pursuant to the Constitution and Statutes of the State of Florida. The vote was:

Yeas—32

Mr. President	Deeb	Hair	Lane, J.
Brantley	Dunn	Henderson	Lewis
Childers, D.	Gallen	Holloway	MacKay
Childers, W. D.	Graham	Johnston	McClain

Peterson	Saunders	Thomas, J.	Vogt
Plante	Sayler	Thomas, P.	Ware
Poston	Sims	Tobiassen	Wilson
Renick	Spicola	Trask	Winn

Nays—5

Firestone	Myers	Stolzenburg	Zinkil
Glisson			

Whereupon Milo I. Thomas, Jr. was so reinstated.

On motion by Senator Wilson, the rules were waived and the Senate reverted to—

INTRODUCTION

By Senators Wilson, Brantley, Ware, Deeb, Tobiassen, Lewis, W. D. Childers, D. Childers, Vogt, P. Thomas, Johnston, Renick, Plante, Glisson and McClain—

SM 1386—A memorial to the Congress of the United States urging employment opportunity and assistance for Vietnam veterans equal to employment opportunity and assistance provided for Vietnam refugees.

—was read the first time in full. On motion by Senator Wilson by two-thirds vote SM 1386 was read the second time by title, adopted, and certified to the House. The vote on adoption was:

Yeas—36

Mr. President	Graham	Myers	Stolzenburg
Brantley	Hair	Peterson	Thomas, J.
Childers, D.	Henderson	Plante	Thomas, P.
Childers, W. D.	Holloway	Poston	Tobiassen
Deeb	Johnston	Renick	Trask
Dunn	Lane, J.	Saunders	Vogt
Firestone	Lewis	Sayler	Ware
Gallen	MacKay	Sims	Wilson
Glisson	McClain	Spicola	Winn

Nays—None

SPECIAL ORDER

Consideration of HB 2235 was deferred.

HB 798—A bill to be entitled An act relating to legal holidays; amending ss.(1) of s.683.01, Florida Statutes, providing that Lincoln's birthday is a legal holiday; providing an effective date.

—was read the second time by title. On motion by Senator Ware, by two-thirds vote HB 798 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Graham	Peterson	Stolzenburg
Brantley	Hair	Plante	Thomas, J.
Childers, D.	Henderson	Poston	Tobiassen
Childers, W. D.	Holloway	Renick	Trask
Deeb	Johnston	Saunders	Vogt
Dunn	Lane, J.	Sayler	Ware
Firestone	Lewis	Scarborough	Wilson
Gallen	McClain	Sims	Winn
Glisson	Myers	Spicola	

Nays—None

On motion by Senator Saunders, by two-thirds vote HB 857 was withdrawn from the Committee on Ways and Means and placed on the calendar.

HB 857—A bill to be entitled An act relating to the Florida retirement system and other state retirement systems; amending paragraphs (a) and (b) of subsection (2) of s.121.081, Florida Statutes, 1974 Supplement, authorizing claims for prior service as creditable service without awaiting lapse of one year period upon otherwise complying with said subsection; providing an effective date.

—was read the second time by title. On motion by Senator Saunders, by two-thirds vote HB 857 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Mr. President	Graham	Myers	Spicola
Brantley	Hair	Plante	Thomas, J.
Childers, D.	Henderson	Poston	Tobiassen
Childers, W. D.	Holloway	Renick	Trask
Dunn	Johnston	Saunders	Vogt
Firestone	Lane, J.	Sayler	Ware
Gallen	Lewis	Scarborough	Wilson
Glisson	McClain	Sims	Winn

Nays—None

SB 531—A bill to be entitled An act relating to education; adding s.228.041(26), (27), (28), Florida Statutes, 1974 Supplement; providing definitions; adding s.229.053(2)(n), Florida Statutes; providing for the duties of the state board of education regarding student conduct; adding s.230.22(1)(c), Florida Statutes, 1974 Supplement; providing the general powers of district school boards regarding student conduct; amending s.230.23(6)(c), Florida Statutes, 1974 Supplement; providing for powers and duties of district school boards relating to expulsion of pupils; amending s.230.33(8)(c), Florida Statutes, 1974 Supplement; providing for duties and responsibilities of superintendent regarding expulsion of pupils; amending s.232.26(1), Florida Statutes; providing for authority of the principal; providing an effective date.

—was read the second time by title.

The Committee on Education offered the following amendments which were moved by Senator Peterson and adopted:

Amendment 1—On page 2, strike all of lines 19-23 and insert: governing student conduct and in the administration of such regulations. The state board guidelines shall include, but not be limited to, a uniform procedural code to be followed by each school board and school principal in cases of suspension and expulsion, and requirements for specificity in regulations to be adopted by school boards governing the grounds for suspension and expulsion and the administration of corporal punishment.

Amendment 2—On page 3, line 7, strike "Department" and insert: Board

Amendment 3—On page 3, line 7, strike "for review and comment"

Amendment 4—On page 5, line 2, insert after the word "desirable" such policies shall insure that bus suspensions fall under the same guidelines as other suspensions.

The Committee on Judiciary-Civil offered the following amendment which was moved by Senator Peterson and adopted:

Amendment 5—On page 5, line 27, insert new paragraph (d):

(d) Except in the case of cruel and unusual punishment the disciplinarian shall not be civilly liable for any action carried out in conformity with the State Board of Education regulations regarding the control, discipline, suspensions and expulsions of students.

and reletter subsequent paragraphs.

Senators Tobiassen, W. D. Childers, and Sayler offered the following amendment which was moved by Senator Tobiassen and failed:

Amendment 6—On page 2, line 5, strike "5" and insert: 10

Senator Graham moved the following amendments which were adopted:

Amendment 7—On page 6, between lines 9 and 10, insert: Section 7. Short title.—Sections 8 through 11 of this act shall be known and may be cited as the "Florida Educational Alternatives Act of 1975".

Section 8. Declaration of intent.—The legislature finds that there are large numbers of public school students within this state for whom traditional methods for classroom learning are either ineffective or inappropriate. The legislature further finds that there are significant numbers of disruptive or unsuccessful students who are potential school dropouts. It is the intent of sections 8 through 11 of this act to encourage educational alternatives to be made available to students whose abilities and educational achievements are such that they are prepared for more challenging experiences.

Section 9. Definitions.—

(1) "Educational alternatives" include, but are not limited to, the following:

(a) Performance graduation, whereby subject credit requirements may be fulfilled by demonstrating mastery of subject area content and an established level of performance and process skills or by completing approved activities.

(b) School level examination program, whereby a system designed to serve students who acquire knowledge through means outside the regular high school program is provided for awarding credit by examination.

(c) Job entry, whereby students are permitted to enter the job market at the end of their junior year of high school and credits toward graduation are awarded for successful on-the-job performance.

(d) Advanced placement, whereby students are permitted to study one or more college-level courses while they are still in secondary school and to receive advanced placement, credit, or both upon entering college.

(e) Dual enrollment, whereby high school students are allowed to enroll concurrently in high school and in a college, university or area vocational school or concurrently in a community college and a university.

(f) Early admission, whereby a post-secondary student who has left high school before the 12th grade is permitted to enroll in a college, university, or area vocational school and the credits earned may count toward high school graduation.

(2) "Educational alternative programs for disruptive or unsuccessful students" means programs designed to meet the needs of students who are disruptive or unsuccessful in a regular school environment. Such programs may include, but are not limited to, tutorial, guidance, and vocational services. Such programs may be in the form of:

(a) Learning centers which specialize in particular subject areas, such as urban studies, communication, and the performing arts, and which students may be permitted to attend on either a full-time or part-time basis.

(b) Crisis intervention centers which provide a temporary intervention program for students who experience difficulty in the regular classroom environment because of behavioral problems and whose teachers are unable to provide an appropriate educational program for them.

(c) Any other alternative to suspension or expulsion which is approved by the district school board.

Section 10. Responsibility of district school boards, Department of Education, and State Board of Education.—

(1) Each district school board shall adopt rules for the implementation of one or more educational alternative programs and shall submit one copy of such rules to the Department of Education. Each district school board shall make the availability of these programs known to the residents of the school district.

(2) The Department of Education shall ensure compliance with this act and may assist district school boards in the development, dissemination and implementation of the rules described in subsection (1).

(3) The State Board of Education shall adopt rules providing criteria for the classification of students who are eligible

for behavior alternative programs. Such criteria shall include, but need not be limited to, achievement test scores, referrals for suspension or other disciplinary action, rate of absence, and history of aggressive behavior.

Section 11. Assistance of the Division of Youth Services.—The Division of Youth Services of the Department of Health and Rehabilitative Services may assist district school boards in training principals and others in the school system in ways to improve the handling of students who are potential school dropouts and in ways to establish educational alternative programs for students who are suspended or assigned to an alternative program.

(Renumber subsequent section)

Amendment 8—On page 1, line 22, after the semicolon insert: providing for educational alternative programs; providing for responsibility of district school boards, the Department of Education, and the State Board of Education; providing for assistance from the Division of Youth Services;

On motion by Senator Peterson, by two-thirds vote SB 531 as amended was read the third time by title, passed and ordered engrossed. The vote on passage was:

Yeas—35

Mr. President	Hair	Plante	Thomas, J.
Brantley	Henderson	Poston	Thomas, P.
Childers, D.	Holloway	Renick	Trask
Childers, W. D.	Johnston	Saunders	Vogt
Dunn	Lane, J.	Saylor	Ware
Firestone	Lewis	Scarborough	Wilson
Gallen	McClain	Sims	Winn
Glisson	Myers	Spicola	Zinkil
Graham	Peterson	Stolzenburg	

Nays—None

By unanimous consent Senator Tobiasen was recorded as voting yea.

On motion by Senator Brantley, the Senate proceeded to the organization of the Body as a Court of Impeachment.

(A separate Journal will be published on all Court of Impeachment proceedings undertaken by the Senate this day.)

On motion by Senator W. D. Childers, unanimous consent was obtained to take up out of order—

HB 1107—A bill to be entitled An act relating to the naming of state bridges; authorizing and directing the Department of Transportation to name a certain bridge which spans the Choctawhatchee River the John Creel Bridge; directing the department to prepare and locate the appropriate signs and markers; providing an effective date.

—which was read the second time by title. On motion by Senator W. D. Childers, by two-thirds vote HB 1107 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Childers, D.	Holloway	Saunders	Tobiasen
Childers, W. D.	Johnston	Saylor	Trask
Deeb	Lane, J.	Scarborough	Vogt
Dunn	Lewis	Sims	Ware
Firestone	McClain	Spicola	Wilson
Glisson	Peterson	Stolzenburg	Winn
Hair	Poston	Thomas, J.	
Henderson	Renick	Thomas, P.	

Nays—None

By unanimous consent Senator Graham was recorded as voting yea.

Special Order, continued

HB 2242—A bill to be entitled An act relating to the place of sale of alcoholic beverages; amending section 562.452, Florida Statutes, prohibiting the sale of intoxicating liquors in parking lots and providing for the sale of intoxicating liquors on the licensed premises; amending section 565.02(1)(g) and (4), Florida Statutes, 1974 Supplement, providing for portable and temporary bars on the grounds contiguous to the licensed premises and a fee for each such bar; permitting licensed clubs to sell alcoholic beverages to non-members on certain days; providing an effective date.

—was read the second time by title.

The President Pro Tempore presiding

Senator Henderson moved the following amendments which were adopted:

Amendment 1—On page 2, lines 23 and 24, strike "Vendors operating places of business where consumption on the premises is permitted" and insert: golf club license holders

Amendment 2—On page 2, line 26, strike "the" and insert: their

Amendment 3—On page 2, line 27, strike "vendor's" and insert: club

Amendment 4—On page 4, line 8, insert after the word "of": golf

On motion by Senator Henderson, by two-thirds vote HB 2242 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—19

Deeb	Henderson	Renick	Vogt
Dunn	Holloway	Scarborough	Ware
Firestone	Lewis	Sims	Wilson
Glisson	MacKay	Spicola	Winn
Graham	McClain	Thomas, P.	

Nays—10

Childers, D.	Lane, J.	Stolzenburg	Zinkil
Hair	Peterson	Thomas, J.	
Johnston	Poston	Trask	

By unanimous consent Senators W. D. Childers and Tobiasen were recorded as voting nay.

On motion by Senator Poston, without objection HB 1381 was placed at the end of the Special Order Calendar.

On motions by Senator Lewis, by two-thirds vote HB 1632 was withdrawn from the Committees on Natural Resources and Conservation, Rules and Calendar and Ways and Means and placed on the calendar.

HB 1632—A bill to be entitled An act relating to the Beach and Shore Preservation Act; amending s.161.091(1)(a), (b), (h), (j), (k), (l), (2), Florida Statutes, 1974 Supplement; providing that the local sponsor of beach erosion control projects assume responsibility for project costs in excess of state-federal cost limitations; authorizing the Department of Natural Resources to pay up to 75 percent of nonfederal construction, maintenance and certain other costs; requiring the department to maintain a current project listing; deleting a list of projects to be completed; providing for deposit of appropriated funds in the Erosion Control Trust Fund Account; providing an effective date.

—was read the second time by title. On motion by Senator Lewis, by two-thirds vote HB 1632 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Childers, D.	Holloway	Poston	Thomas, J.
Deeb	Johnston	Renick	Thomas, P.
Dunn	Lane, J.	Sayler	Trask
Firestone	Lewis	Scarborough	Vogt
Glisson	MacKay	Sims	Ware
Hair	McClain	Spicola	Winn
Henderson	Peterson	Stolzenburg	Zinkil

Nays—1

Wilson

By unanimous consent Senator Graham was recorded as voting yea; Senators Tobiasen and W. D. Childers as voting nay.

On motion by Senator Zinkil, the rules were waived and time of adjournment was extended until 6:00 p.m.

On motion by Senator Ware, by two-thirds vote HB 1329 was withdrawn from the Committee on Commerce and placed on the calendar.

SB 510 was taken up and on motion by Senator Ware—

HB 1329—A bill to be entitled An act relating to electric utilities; authorizing publicly and privately owned electric utilities to jointly plan, finance, acquire, construct, own, manage, operate and utilize joint electric power supply projects; providing for the manner of purchase, sale and transfer of energy manufactured by and interests in such projects; providing definitions and powers including eminent domain; providing principles for construction of this act; authorizing taxation with respect to the private interest portions of joint power projects; providing an effective date.

—a companion measure was substituted therefor and read the second time by title.

Senators Ware and Glisson offered the following amendment which was moved by Senator Ware and adopted:

Amendment 1—On page 1, line 30, strike all of Section 2(2). and insert: (2) "Electric utility" means any municipality, authority, commission or other public body, which owned, maintained or operated an electrical energy generation, transmission or distribution system within the state or any investor-owned electric utility or rural electric cooperative authorized to transact business in the state of Florida on the effective date of this Act.

Senator Ware moved the following amendment which was adopted:

Amendment 2—On page 4, line 1, strike "In accordance with" and insert: Except as provided in

On motion by Senator Ware, by two-thirds vote HB 1329 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Childers, D.	Johnston	Sayler	Vogt
Deeb	Lane, J.	Scarborough	Ware
Dunn	Lewis	Spicola	Wilson
Firestone	MacKay	Stolzenburg	Winn
Glisson	McClain	Thomas, J.	Zinkil
Hair	Poston	Thomas, P.	
Henderson	Renick	Tobiasen	
Holloway	Saunders	Trask	

Nays—None

SB 510 was laid on the table.

By unanimous consent Senators Renick, Peterson, W. D. Childers and Graham were recorded as voting yea.

On motion by Senator Dunn, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Dempsey J. Barron, President June 3, 1975

I am directed to inform the Senate that the House of Representatives has adopted SM 1386.

Allen Morris, Clerk

The Honorable Dempsey J. Barron, President June 3, 1975

I am directed to inform the Senate that the House of Representatives has passed CS for SB 682.

Allen Morris, Clerk

The Honorable Dempsey J. Barron, President June 3, 1975

I am directed to inform the Senate that the House of Representatives has passed—

SB 1355	CS for SB	SB 572
SB 1249	245	SB 1362

Allen Morris, Clerk

The bills contained in the above messages were ordered enrolled.

The Honorable Dempsey J. Barron, President June 3, 1975

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendments 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 36, 37 and 38 to HB 1289 and requests the Senate to recede.

Allen Morris, Clerk

By the Committee on Criminal Justice—

HB 1289—A bill to be entitled An act relating to the Florida Criminal Code; amending s.775.08(3), Florida Statutes, 1974 Supplement; defining the term "noncriminal violation"; amending s.775.084, Florida Statutes, 1974 Supplement; providing penalties for subsequent misdemeanor offenders; amending s. 775.087(1), Florida Statutes, 1974 Supplement; providing for reclassification of a felony in which the defendant carries a firearm; amending s.776.08, Florida Statutes, 1974 Supplement; including involuntary sexual battery in the definition of a forcible felony; amending ss.777.04(4), 782.04, 782.07, 782.071, 784.011(2), 784.021(2), 784.03(2), 784.045(2), 784.05, 787.01(2), 787.02(2), 787.03(1), 787.04(4), 794.03, 794.011(2)—(5), 806.01(1), (2), 806.10, 806.11, 806.13(2), 810.02(2), (3), 810.06, 810.08, 810.09, 810.10(2), 810.11(2), 812.021(2), (3), 812.031(2), (3), 812.041(1), 812.051(2), 812.13(2), 826.01, 826.03, 826.04, 827.03, 827.04, 827.05, 827.06(1), 837.012(1), 837.02(1), 837.021, 837.05, 837.06, 838.015(3), 838.016(4), 838.021(3), 838.031(3), 838.041, Florida Statutes, 1974 Supplement; amending the penalty provisions; reenacting and amending s.800.04, Florida Statutes; prohibiting lewd or lascivious conduct upon or in the presence of a child; reenacting ss.823.01, 823.02, 823.04, 823.041, and 823.05-823.10, Florida Statutes; relating to public nuisance and providing penalties therefor; repealing s.775.086, Florida Statutes, 1974 Supplement, relating to subsequent misdemeanor offenders; repealing s.64, chapter 74-383, Laws of Florida, relating to penalty provision references in the Florida Statutes; providing an effective date.

Senate Amendment 1—On page 14, line 17, strike having reason to know and insert: with reasonable grounds to believe

Senate Amendment 4—On page 31, line 25, between lines 25 and 26 insert: Section 42. Section 828.08, Florida Statutes, is reenacted to read:

828.08 Penalty for exposing poison—Whoever leaves or deposits any poison or any substance containing poison, in any common street, alley, lane or thoroughfare of any kind, or in any yard or enclosure other than the yard or enclosure occupied or owned by such person, shall be guilty of a misdemeanor of the first degree, punishable as provided in s.775.082 or s.775.-083.

(renumber subsequent sections)

Senate Amendment 5—On page 31, lines 25 and 26, between lines 25 and 26 insert: Section 43. Subsection (3) of section 775.011, Florida Statutes, 1974 Supplement, is amended to read:

775.011 Short title; applicability to antecedent offenses.—

(3) In any case pending on or after ~~October~~ **July 1, 1975**, involving an offense committed prior to such date, the provisions of the code involving any quasi-procedural matter shall govern, insofar as they are justly applicable ~~and~~ the provisions of the code according a defense or mitigation or establishing a penalty shall apply only with the consent of the defendant.

(Renumber subsequent sections)

Senate Amendment 7—On page 19, line 14, strike the last comma and insert:

; or

(g) Any make, type, or model of fire extinguisher,

Senate Amendment 8—On page 20, line 15, strike the last comma and insert:

; or

(g) Any make, type or model of fire extinguisher,

Senate Amendment 9—On page 25, lines 15-18, strike all of lines 15 thru 18 and insert:

Section 36. Section 838.016, Florida Statutes, 1974 Supplement, is amended to read:

838.016 Unlawful compensation or reward for ~~past~~ official behavior.—

(1) It is unlawful for any person corruptly to give, offer, or promise to any public servant, or if a public servant, corruptly to request, solicit, accept or agree to accept any pecuniary or other benefit not authorized by law for the past, ~~present, or future~~ performance, ~~nonperformance, or violation~~ of any act or omission which the person believes to have been or the public servant represents as having been either within the official discretion of the public servant or in violation of a public duty, or in performance of a public duty. Provided that nothing herein shall be construed so as to preclude a public servant from accepting rewards for services performed in apprehending any criminal.

(2) It is unlawful for any person corruptly to give, offer, or promise to any public servant, or if a public servant, corruptly to request, solicit, accept or agree to accept any pecuniary or other benefit not authorized by law for the past, ~~present, or future~~ exertion of any influence upon or with any other public servant regarding any act or omission which the person believes to have been or which is represented to him as having been either within the official discretion of the other public servant or in violation of a public duty or in performance of a public duty.

(3) Prosecution under this section shall not require that the exercise of influence or official discretion, or violation of a public duty or performance of a public duty, for which a pecuniary or other benefit was given, offered, promised, requested, or solicited was accomplished or was within the influence, official discretion, or public duty of the public servant whose action or omission was sought to be rewarded or compensated.

Senate Amendment 11—On page 31, line 27, between lines 27 and 28 insert:

Section 44. Subsection (1) of section 918.14, Florida Statutes, is amended to read:

918.14 Tampering with witnesses.—

(1) It is unlawful for any person, knowing that a ~~criminal trial or an official proceeding or an investigation~~ by a duly constituted prosecuting authority, law enforcement agency, grand jury or legislative committee or Judicial Qualifications Commission of this state is pending or knows that such is about to be instituted to endeavor or attempt to induce or otherwise cause a witness to:

(a) Testify or inform falsely; or

(b) Withhold any testimony, information, document, or thing.

(Renumber subsequent sections)

Senate Amendment 12—On page 31, line 29, strike between lines 29 and 30 and insert:

Section 48. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

(Renumber subsequent section)

Senate Amendment 13—On page 31, line 25, between lines 25 and 26 insert:

Section 45. Paragraph (a) of subsection (2) of Section 782.02, Florida Statutes, is reenacted and amended to read:

782.02 Justifiable Use of Deadly Force ~~Homicide~~.

~~(2)~~ The use of deadly force ~~homicide~~ is justifiable when a person is committed by any person in either of the following cases:

~~(a)~~ When resisting any attempt to murder such person, or to commit any felony upon him, or upon or in any dwelling house in which person shall be;

(Renumber subsequent sections)

Senate Amendment 14—On page 31, line 26, strike lines 26 and 27 and insert:

Section 46. Sections 775.086 and 776.021, Florida Statutes, 1974 Supplement, are hereby repealed.

Senate Amendment 19—On page 2, line 1 in the title, after the semicolon insert:

amending s.806.01, Florida Statutes, making it unlawful to willfully or maliciously, by fire or explosive, damage property if the person has reasonable grounds to believe that a human being is in the structure; providing a penalty; amending s.826.04, Florida Statutes, relating to incest, substituting sexual battery for sexual intercourse as an element of the crime; reenacting s.828.08, Florida Statutes, providing a penalty for exposing poison; amending s.775.011(3), Florida Statutes, 1974 Supplement, changing the date of application of the code to pending cases and clarifying provision;

Senate Amendment 20—On page 1, line 10 in the title, strike (1)

Senate Amendment 21—On page 1, line 29, strike after "provision" and insert: and an increased penalty for fire extinguisher theft

Senate Amendment 22—On page 1, between lines 15 and 16 in the title, insert: amending s.838.016, Florida Statutes, 1974 Supplement, providing unlawful compensation punishable whether for past, present, or future official behavior;

Senate Amendment 24—On page 2, line 6 in the title, before "repealing" on line 6 insert: amending s.918.14(1), Florida Statutes, 1973, adding to types of proceeding for which it is unlawful to tamper with witnesses;

Senate Amendment 25—On page 2, line 9 in the title, after "Statutes," insert: providing severability;

Senate Amendment 26—On page 2, after "offenders," on line 6 insert: amending and reenacting s.782.02(2)(a), Florida Statutes, relating to defense of person and dwelling; repealing s.776.021, Florida Statutes, 1974 Supplement, relating to defense of dwelling;

Senate Amendment 27—On page 2, line 1 in the title, after the semicolon insert: amending s.812.031, Florida Statutes, including the receipt of a stolen fire extinguisher in the crime of receiving stolen property;

Senate Amendment 28—On page 2, line 4 in the title, after "therefor," insert: amending s.849.25, Florida Statutes, providing a penalty for any person engaging in bookmaking to a certain extent and for repeated violations;

Senate Amendment 29—On page 31, line 25 in the title, between lines 25 and 26 insert:

Section 42. Section 849.25, Florida Statutes, is amended to read:

849.25 Bookmaking defined; penalties.—

(1) As used in this section, the term bookmaking shall be deemed to be the taking or receiving of any bet or wager upon the result of any trial or contest of skill, speed, power, or endurance of man, beast, fowl or motor vehicle.

(2) Except as provided in subsection (3), whoever engages in bookmaking shall be guilty of a misdemeanor of the first degree, punishable as provided in s.775.082 or s.775.083. Any person who, having been convicted of violating this subsection ~~act~~, thereafter violates this subsection ~~act~~, shall be guilty of a felony of the third degree, punishable as provided in s.775.082, s.775.083, or s.775.084.

(3) Whoever engages in bookmaking to the extent that in any one day he receives or accepts more than five bets or receives bets totaling more than \$500, or engages in a common bookmaking scheme with three or more persons is guilty of a felony of the third degree, punishable as provided in s.775.082, s.775.083, or s.775.084. Any person who, having been convicted of violating this section, thereafter violates this subsection, is guilty of a felony of the second degree, punishable as provided in s.775.082, s.775.083, or s.775.084.

(4) ~~(3)~~ This section shall not apply to pari-mutuel wagering in Florida as authorized by the laws of the state; provided further, however, this section shall not apply to any prosecutions filed and pending at the time of the passage hereof, but all such cases shall be disposed of under existing law at the time of the institution of such prosecutions.

(Renumber subsequent sections)

Senate Amendment 32—On page 2, line 4, in the title after "therefore" insert: amending s.849.25, Florida Statutes, providing a penalty for any person engaging in bookmaking to a certain extent and for repeated violation;

Senate Amendment 33—On page 2, line 1 in the title, after the semi-colon insert: amending s.812.031, Florida Statutes, including the receipt of a stolen fire extinguisher in the crime of receiving stolen property;

Senate Amendment 36—On page 6, lines 5-22, strike all of lines 5 through and including line 22 and insert:

Section 3. Section 775.087, Florida Statutes, 1974 Supplement, is amended to read:

775.087 Possession or use of weapon; aggravated battery; felony reclassification; minimum sentence.—

(1) Unless otherwise provided by law, whenever a person is charged with a felony, except a felony in which the use of a weapon or firearm is an essential element, and during the commission of such felony the defendant carries, displays, uses, threatens, or attempts to use any weapon or firearm, or during the commission of such felony the defendant commits an aggravated battery, the felony for which the person is charged shall be reclassified as follows:

(a) In the case of a felony of the first degree, to a life felony.

(b) In the case of a felony of the second degree, to a felony of the first degree.

(c) In the case of a felony of the third degree, to a felony of the second degree.

(2) Any person who is ~~has been~~ convicted of any murder, sexual battery, robbery, burglary, arson, aggravated assault, aggravated battery, kidnapping, escape, breaking and entering with intent to commit a felony, aircraft piracy, or any attempt to commit the aforementioned crimes, and said person had in his possession a firearm or destructive device as defined in subsection 790.001(4) or (6) shall be sentenced to a minimum term of imprisonment of 3 years. Notwithstanding the provisions of s.948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred or withheld, nor shall the defendant be eligible for parole prior to serving such minimum sentence. ~~felony involving a firearm or destructive device as defined in subsections 790.001(4) and (6) in the courts of this state, or of the United States, or of any other state, territory, or country, if punishable by imprisonment for a term exceeding 1 year, shall, upon subsequent conviction of a felony involving the display or use of, or attempt to use, a firearm or destructive device as defined in subsections 790.001(4) and (6), serve a minimum term of 3 years.~~

Senate Amendment 37—On page 1, line 13 in the Title, after the word "firearm" insert: amending s.775.087(2), Florida Statutes, 1974 Supplement; providing minimum sentence for conviction of certain felonies involving the use of a firearm or destructive device;

On motions by Senator Ware, the Senate receded from Senate amendments 2, 3, 10, 23, 30, 31, 31A, 34 and 38, and refused to recede from Senate amendments 1, 4, 5, 7, 8, 9, 11, 12, 13, 14, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 32, 33, 36 and 37 to HB 1289 and the House was again requested to concur.

HB 1289 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—27

Childers, D.	Johnston	Renick	Tobiassen
Deeb	Lane, J.	Saylor	Trask
Dunn	MacKay	Scarborough	Vogt
Firestone	McClain	Spicola	Ware
Hair	Myers	Stolzenburg	Wilson
Henderson	Peterson	Thomas, J.	Winn
Holloway	Poston	Thomas, P.	

Nays—1

Lewis

By unanimous consent Senators W. D. Childers and Graham were recorded as voting yea.

The Honorable Dempsey J. Barron, President June 3, 1975

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By Senator Deeb and others—

SB 1207—A bill to be entitled An act relating to salt water fisheries and conservation; amending s.370.021(5), Florida Statutes; providing that the Department of Natural Resources may designate employees of its divisions as law enforcement officers with power to investigate and arrest for any violation of the laws of this state; designating the executive director of the department and the director of the Division of Marine Resources as law enforcement officers; providing authority to search without a warrant buildings and vehicles engaged in storage of fish or fishery products; providing authority to seize contraband; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment 1—On page 1, line 9, strike "any" and insert: certain

House Amendment 2—On page 1, line 29, after the word "subsection" insert: , provided that such employees shall comply with the provisions of chapter 943.

House Amendment 3—On page 2, line 3, strike all of line 3 and insert: ~~arrests for violations of the laws of this state of chapter 370, 371, 372 or 893 and the rules~~

House Amendment 4—On page 3, line 9, strike "any of the laws of this state" and insert: the provisions of chapter 370, 371, 372 and 893 and any sales promulgated thereunder

On motions by Senator Deeb, the Senate concurred in House amendment 2 and refused to concur in House amendments 1, 3 and 4 to SB 1207 and the House was requested to recede therefrom.

SB 1207 passed as amended and was certified to the House. The vote on passage was:

Yeas—32

Childers, D.	Johnston	Renick	Thomas, P.
Deeb	Lane, J.	Saunders	Tobiassen
Dunn	Lewis	Saylor	Trask
Firestone	MacKay	Scarborough	Vogt
Glisson	McClain	Sims	Ware
Hair	Myers	Spicola	Wilson
Henderson	Peterson	Stolzenburg	Winn
Holloway	Poston	Thomas, J.	Zinkil

Nays—None

On motion by Senator Ware, the Senate reconsidered the vote by which—

HB 1329—A bill to be entitled An act relating to electric utilities; authorizing publicly and privately owned electric utilities to jointly plan, finance, acquire, construct, own, manage, operate and utilize joint electric power supply projects; providing for the manner of purchase, sale and transfer of energy manufactured by and interests in such projects; providing definitions and powers including eminent domain; providing principles for construction of this act; authorizing taxation with respect to the private interest portions of joint power projects; providing an effective date.

—as amended passed this day.

Senator Ware moved the following title amendment which was adopted.

Amendment 3—On page 1, line 5, after the word "authorizing" insert: rural electric cooperatives

HB 1329 as further amended was read by title, passed and certified to the House. The vote on passage was:

Yeas—31

Childers, D.	Johnston	Renick	Tobiassen
Deeb	Lane, J.	Saunders	Trask
Firestone	Lewis	Saylor	Vogt
Glisson	MacKay	Sims	Ware
Gordon	McClain	Spicola	Wilson
Hair	Myers	Stolzenburg	Winn
Henderson	Peterson	Thomas, J.	Zinkil
Holloway	Poston	Thomas, P.	

Nays—None

By unanimous consent Senators W. D. Childers and Graham were recorded as voting yea.

The Senate resumed Messages from the House of Representatives.

The Honorable Dempsey J. Barron, President June 3, 1975

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By Senators Deeb and Renick—

SB 332—A bill to be entitled An act relating to abuse of children; amending s.827.07(6), Florida Statutes, 1974 Supplement; requiring the Department of Health and Rehabilitative

Services to notify the state attorney of suspected child abuse; requiring the state attorney to assist in the investigation; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment 1—On page 1, line 1, strike everything after the enacting clause and insert: Section 1. A new subsection (12) is added to Section 827.07, Florida Statutes, 1974 Supplement, and subsections (1), (2), (4), (6), (7) and (8) of said section are amended to read:

827.07 Abuse of children.—

(1) **DEFINITIONS.**—As used in this section:

(a) “Child” means any person under the age of 18 ~~seven-~~teen years.

(b) “Abuse” or “maltreatment” includes *any willful or negligent acts which result in neglect; malnutrition; sexual abuse; unreasonable severe physical injury inflicted other than by accidental means; material endangerment of mental health or; and failure to provide sustenance, clothing or medical attention.*

(c) “Abused child” means any child who has been subject to abuse or whose condition suggests that he has been abused.

(d) “Department” means the department of health and rehabilitative services.

(e) “Physician” means any licensed physician, dentist, podiatrist, or optometrist and any intern or resident.

(2) **PURPOSE.**—The purpose of this section is to provide for the detection and correction *through the provision of rehabilitative and ameliorative services* of the abuse or maltreatment of children who are unable to protect themselves. Such abuse of maltreatment includes *any willful or negligent acts which result in neglect; malnutrition; sexual abuse; the infliction of unreasonable severe physical injury other than by accidental means; material endangerment of mental health or; failure to provide necessary treatment, attention, sustenance, clothing, shelter or medical services; provided, however, that a parent or guardian legitimately practicing his religious beliefs who thereby does not provide specified medical treatment for a child, for that reason alone, shall not be construed a negligent parent or guardian; however, such an exception shall not preclude a court from ordering that medical services or treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well recognized church or religious organization be provided to the child, when his health requires it.*

(4) **REPORTS OF ABUSE REQUIRED.**—Any person including, but not limited, to any physician, nurse, teacher, social worker, or employee of a public or private facility serving children who has reason to believe that a child has been subject to abuse, shall report or cause reports to be made to the department. When the attendance of a physician with respect to a child is pursuant to the performance of services as a member of a staff of a hospital, clinic, or similar institution, he shall notify the person in charge of the institution or his designated delegate, who shall report or cause reports to be made in accordance with the provisions of this section.

(6) **RESPONSIBILITIES OF PUBLIC AGENCIES.**—Upon receipt of a report of abuse of a child, the department shall cause an immediate investigation to be made. If the department has reason to believe that a child has been criminally abused, it shall immediately and orally notify the state attorney who shall assist local law enforcement officers in the investigation of the case, and shall in turn notify the *circuit juvenile* court in the appropriate county. The department shall secure the *cooperation of law enforcement officials, courts of competent jurisdiction and other appropriate state and local agencies providing human services assistance of other agencies, if appropriate, including the juvenile court.* All state, county, and local agencies have a duty to give full cooperation to the department, to transmit reports of abuse to the department, to protect and enhance the welfare of abused children, and to protect and enhance the welfare of other children potentially subject to abuse detected by a report made pursuant to this section.

Any report which alleges that an employee or agent of the department, acting in an official capacity, has committed an act of child abuse shall be investigated by the state attorney in whose circuit the alleged act of child abuse occurred.

(7) **ESTABLISHMENT AND MAINTENANCE OF CENTRAL REGISTRY.**—A central registry ~~Central registries~~ shall be established and maintained by the department. ~~The Each~~ registry shall contain information as to the name of the abused child, the name of the family or other persons responsible for his care, and the result of the investigation. *All information maintained in the registry and all reports and records concerning known or suspected instances of child abuse or maltreatment shall be confidential.* The information contained in the registry shall not be open to inspection by the public. However, appropriate disclosure may be made for use in connection with the treatment of the abused child, or person perpetrating abuse, ~~and to counsel representing the person in any criminal or civil proceeding.~~ Information contained in the registry may also be available for purposes of significant research relating to child abuse. The department shall not make such information available, however, unless application is made by a researcher or research agency of professional repute, and unless the need for the records and the significance of the research for which they are to be used have been demonstrated to the satisfaction of the department. Records shall not be opened under this subsection unless adequate assurances are given that patients' names and other identifying information will not be disclosed by the applicant. *In addition the names of persons reporting abuse shall in no case be released to any person, other than employees of the department involved in the investigation of reports of abuse, without the written consent of the person reporting.*

(8) **TRANSMITTAL OF REPORTS RECORDS TO STATE ATTORNEYS AND CIRCUIT COURTS.**—*If, upon investigation of a report, as provided in subsection (6) of this section, it is suspected that a child has been criminally abused, With respect to any case of reported child abuse, the department shall immediately transmit the report received by it to the state attorney and the circuit court of the county where the incident occurred, which report shall contain the results of the investigation.*

(12) *A guardian ad litem may be appointed by the court to represent the child in any child abuse judicial proceeding.*

Section 2. This act shall take effect June 30, 1975.

House Amendment 2—On page 1, strike all language in the title and insert: A bill to be entitled An act relating to child abuse; adding subsection (12) to s.827.07, Florida Statutes, 1974 Supplement, and amending subsections (1), (2), (4), (6), (7) and (8) of said section, redefining “child” as used in provisions relating to child abuse to persons under age 18; redefining “abuse” or “maltreatment” as used in provisions relating to child abuse to include sexual abuse and materially endangering the mental health of a child; providing that if in the legitimate practice of religious belief, specified medical treatment is not provided to a child that such action shall not be considered neglect for that reason alone; providing that the legitimate practice of religious beliefs shall not preclude a court from ordering that medical service be provided to a child where his health requires it; requiring any person who has reason to believe that a child has been abused to report such abuse to the Department of Health and Rehabilitative Services; requiring the Department of Health and Rehabilitative Services to secure cooperation with law enforcement officials, courts and other appropriate agencies; requiring reports which allege that an employee or agent of the department has committed an act of child abuse to be investigated by the state attorney; requiring that all reports, information and records concerning child abuse shall be confidential; removing the provision permitting disclosure of information in the registry to counsel representing the person alleged to have committed an act of child abuse; providing that the names of persons reporting abuse shall not be released to anyone other than the department employees performing investigations; providing that if upon investigation, the department finds criminal abuse, a report of such findings will be transmitted to the state attorney; providing that a guardian ad litem may be appointed by the court to represent the child in any child abuse judicial proceeding; providing an effective date.

On motions by Senator Deeb, the Senate concurred in House amendments 1 and 2 to SB 332.

SB 332 passed as amended by the House amendments, was ordered engrossed and the action of the Senate was certified to the House. The vote on passage was:

Yeas—31

Childers, D.	Johnston	Renick	Tobiassen
Deeb	Lane, J.	Saunders	Trask
Firestone	Lewis	Sayler	Vogt
Glisson	MacKay	Scarborough	Ware
Gordon	McClain	Sims	Wilson
Hair	Myers	Stolzenburg	Winn
Henderson	Peterson	Thomas, J.	Zinkil
Holloway	Poston	Thomas, P.	

Nays—None

By unanimous consent Senators Spicola, W. D. Childers and Graham were recorded as voting yea.

The Honorable Dempsey J. Barron, President June 3, 1975

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By the Committee on Health and Rehabilitative Services and Senators Wilson and Renick—

CS for SB 1215—A bill to be entitled An act relating to hospitals; requiring certain hospitals that provide emergency services to provide certain treatment for victims of sexual assault; providing responsibilities of the hospital toward such persons; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment 1—On page 1, line 14, strike “shall” and insert: may

House Amendment 4—In title, line 4, strike “Requiring” and insert: allowing

On motions by Senator Wilson, the Senate concurred in House amendments 1 and 4 to CS for SB 1215.

CS for SB 1215 passed as amended by the House amendments, was ordered engrossed and the action of the Senate was certified to the House. The vote on passage was:

Yeas—30

Childers, D.	Lane, J.	Saunders	Tobiassen
Deeb	Lewis	Sayler	Trask
Dunn	MacKay	Scarborough	Vogt
Firestone	McClain	Sims	Ware
Glisson	Myers	Spicola	Wilson
Hair	Peterson	Stolzenburg	Zinkil
Henderson	Poston	Thomas, J.	
Holloway	Renick	Thomas, P.	

Nays—None

By unanimous consent Senators Graham and W. D. Childers were recorded as voting yea.

The Honorable Dempsey J. Barron, President May 30, 1975

I am directed to inform the Senate that the House of Representatives has passed, with amendment, by the required Constitutional three-fifths vote of the membership of the House—

By the Committee on Rules and Calendar—

CS for SJR 1061—A joint resolution proposing an amendment to Section 9, Article VII of the State Constitution relating to local ad valorem taxes.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment 1—On page 2, line 1, strike for all water management purposes, one mill; and insert: for water management purposes for the northwest portion of the state lying west of the line between ranges two and three east, 0.05 mill; for water management purposes for the remaining portions of the state, 1.0 mill;

Senator Lewis moved that the Senate concur in the House amendment to CS for SJR 1061. The motion was adopted by the following vote:

Yeas—21

Brantley	Johnston	Renick	Ware
Childers, W. D.	Lane, J.	Scarborough	Winn
Firestone	Lewis	Sims	Zinkil
Gordon	McClain	Spicola	
Hair	Peterson	Tobiassen	
Henderson	Poston	Trask	

Nays—13

Mr. President	Glisson	Stolzenburg	Wilson
Childers, D.	MacKay	Thomas, J.	
Deeb	Saunders	Thomas, P.	
Dunn	Sayler	Vogt	

By unanimous consent Senator Graham was recorded as voting yea.

CS for SJR 1061 as amended was read in full as follows:

CS for SJR 1061—A joint resolution proposing an amendment to Section 9, Article VII of the State Constitution relating to local ad valorem taxes.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 9 of Article VII of the State Constitution is hereby agreed to and shall be submitted to the electors of this state for approval or rejection at the general election to be held in November 1976:

ARTICLE VII

FINANCE AND TAXATION

SECTION 9. Local Taxes.—

(a) Counties, school districts, and municipalities shall, and special districts may, be authorized by law to levy ad valorem taxes and may be authorized by general law to levy other taxes, for their respective purposes, except ad valorem taxes on intangible personal property and taxes prohibited by this constitution.

(b) Ad valorem taxes, exclusive of taxes levied for the payment of bonds and taxes levied for periods not longer than two years when authorized by vote of the electors who are the owners of freeholds therein not wholly exempt from taxation, shall not be levied in excess of the following millages upon the assessed value of real estate and tangible personal property: for all county purposes, ten mills; for all municipal purposes, ten mills; for all school purposes, ten mills; for water management purposes for the northwest portion of the state lying west of the line between ranges two and three east, 0.05 mill; for water management purposes for the remaining portions of the state, 1.0 mill; and for all other special districts a millage authorized by law approved by vote of the electors who are owners of freeholds therein not wholly exempt from taxation. A county furnishing municipal services may, to the extent authorized by law, levy additional taxes within the limits fixed for municipal purposes.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 9

Proposing an amendment to the State Constitution authorizing and limiting local taxes for water management purposes to not more than one (1) mill.

—and passed with the required constitutional three-fifths vote of the membership and was ordered engrossed. The action of the Senate was certified to the House. The vote on passage was:

Yeas—24

Mr. President	Henderson	Peterson	Spicola
Brantley	Johnston	Poston	Thomas, P.
Firestone	Lane, J.	Renick	Trask
Glisson	Lewis	Saylor	Vogt
Gordon	McClain	Scarborough	Winn
Hair	Myers	Sims	Zinkil

Nays—11

Childers, D.	Dunn	Stolzenburg	Ware
Childers, W. D.	MacKay	Thomas, J.	Wilson
Deeb	Saunders	Tobiasen	

By unanimous consent Senator Graham was recorded as voting yea.

The Honorable Dempsey J. Barron, President June 3, 1975

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 1, 2, 3, 4, 5, 6, 8, 10, 11, 13, 14, 15, 16, 17, 19, 21, 22 and 23 and passed HB 1972, as amended.

has refused to concur in Senate Amendments 9, 12, 18, 20 and requests the Senate to recede.

By Representatives Hodes and Moore—

HB 1972—A bill to be entitled An act relating to education; amending s.20.15(3)(a) and (4), Florida Statutes, changing the name of the Division of Elementary and Secondary Education to the Division of Public Schools; prescribing the method of appointing division directors in the Department of Education; amending s.229.512(1), Florida Statutes, providing that the commissioner's appointment of division directors shall be subject to approval of the state board; adding subsection (5) to s.229.551, Florida Statutes, providing for establishment of a common course designation and numbering system for community colleges and state universities; amending s.229.8055(3), Florida Statutes, and adding subsection (6) to said section; requiring the Bureau of Environmental Education to integrate environmental education into the general curriculum of all public school grades; providing for the appointment of an Environmental Education Advisory Council; providing for membership, meetings and a chairman; providing duties and responsibilities; providing for expenses of members; amending s.231.30(2)(a), Florida Statutes, increasing from \$5 to \$7 the amount of each regular certificate fee deposited in the Professional Practices Commission Trust Fund; changing the name of such fund to the Professional Practices Advisory Council Trust Fund; amending s.239.451(1), Florida Statutes, providing for the awarding of certificates when new regents scholarships are awarded; amending s.239.68, Florida Statutes, creating the Florida Student Financial Aid Advisory Council; providing an effective date.

On motions by Senator Gordon, the Senate receded from Senate Amendments 9, 12, 18 and 20 to HB 1972.

HB 1972 as amended passed and the action of the Senate was certified to the House. The vote on passage was:

Yeas—30

Brantley	Henderson	Renick	Trask
Childers, D.	Johnston	Scarborough	Vogt
Childers, W. D.	Lane, J.	Sims	Ware
Deeb	Lewis	Spicola	Wilson
Firestone	MacKay	Stolzenburg	Winn
Glisson	McClain	Thomas, J.	Zinkil
Gordon	Peterson	Thomas, P.	
Hair	Poston	Tobiasen	

Nays—None

By unanimous consent Senator Graham was recorded as voting yea.

The Honorable Dempsey J. Barron, President June 3, 1975

I am directed to inform the Senate that the House of Representatives has amended Senate Amendments 2 and 6, concurred in same as further amended and passed HB 1909, as further amended, and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Education—

HB 1909—A bill to be entitled An act relating to fixed capital outlay projects at school plants; providing legislative intent; providing for allocation of certain moneys for such projects undertaken by district school boards, community colleges, area vocational-technical centers, Board of Trustees of the Florida School for the Deaf and the Blind of the Department of Education, and institutions under the Board of Regents of the Division of Universities of the Department of Education; providing conditions upon the financing of such projects; providing certain limitations; providing appropriations; providing for severability; providing an effective date.

Senate Amendment 2—On page 1, line 19, strike everything after the enacting clause and insert: Section 1. The Legislature hereby finds and determines that the items and sums designated in this section shall constitute authorized capital outlay projects within the meaning and as required by section 9(a), Art. XII of the State Constitution, as amended, and s.240.141, Florida Statutes, and any other law. In accordance therewith, the moneys in the following items are authorized to be expended for the enumerated authorized fixed capital outlay projects.

(1) From moneys becoming available pursuant to the provisions of section 9(a), Art. XII of the State Constitution, as amended:

(a) Ninety-seven million, eighty-six thousand, five hundred ninety dollars shall be allocated by the State Board of Education through the office of Educational Facilities Construction to the district school boards of the 67 school districts listed below. The office of Educational Facilities Construction shall determine each district's allocation of the amount authorized in this act using the criteria set forth in s.236.084, Florida Statutes. Funds accruing to each district under this authorization shall be considered a part of the annual allocation from the Florida Education Finance Program for the comprehensive school construction and debt service program. The office of Educational Facilities Construction shall request the Comptroller to disburse funds to each district and, after the approval of such request by the Department of Administration, the Comptroller shall disburse the approved amount to the district's school fund to be deposited to the credit of the district capital outlay and construction fund to be established by each district school board: District of Alachua County, District of Baker County, District of Bay County, District of Bradford County, District of Brevard County, District of Broward County, District of Calhoun County, District of Charlotte County, District of Citrus County, District of Clay County, District of Collier County, District of Columbia County, District of Dade County, District of DeSoto County, District of Dixie County, District of Duval County, District of Escambia County, District of Flagler County, District of Franklin County, District of Gadsden County, District of Gilchrist County, District of Glades County, District of Gulf County, District of Hamilton County, District of Hardee County, District of Hendry County, District of Hernando County, District of Highlands County, District of Hillsborough County, District of Holmes County, District of Indian River County, District of Jackson County, District of Jefferson County, District of Lafayette County, District of Lake County, District of Lee County, District of Leon County, District of Levy County, District of Liberty County, District of Madison County, District of Manatee County, District of Marion County, District of Martin County, District of Monroe County, District of Nassau County, District of Okaloosa County, District of Okeechobee County, District of Orange County, District of Osceola County, District of Palm Beach County, District of Pasco County, District of Pinellas County, District of Polk County, District of Putnam County, District of St. Johns County, District of St. Lucie County, District of Santa Rosa County, District of Sarasota County, District of Seminole County, District of Sumter County, District of Suwannee County, District of Taylor County, District of Union County, District of Volusia County,

District of Wakulla County, District of Walton County, and District of Washington County.

(b) Twenty million, nine hundred twenty-six thousand, five hundred twenty-two dollars shall be allocated by the State Board of Education to the boards of trustees for the named community colleges listed below. Upon request of a board of trustees and after the approval of such request by the Department of Administration, the Comptroller shall disburse the approved amount to be deposited to the credit of each community college construction fund: Santa Fe Community College, Gulf Coast Community College, Brevard Community College, Broward Community College, Lake City Community College, Miami-Dade Community College, Florida Junior College at Jacksonville, Pensacola Junior College, South Florida Junior College, Hillsborough Community College, Chipola Junior College, Lake-Sumter Community College, Edison Community College, Tallahassee Community College, North Florida Junior College, Manatee Junior College, Central-Florida Community College, Florida Keys Community College, Okaloosa-Walton Junior College, Valencia Community College, Palm Beach Junior College, St. Petersburg Junior College, Pasco-Hernando Community College, Polk Community College, St. Johns River Junior College, Indian River Community College, Seminole Junior College and Daytona Beach Community College.

(c) Seventeen million, seventy-nine thousand, one hundred eighty-one dollars shall be allocated by the State Board of Education to the district school boards of the following districts for area vocational-technical centers in the named districts. Upon request of a district school board and after the approval of such request by the Department of Administration, the Comptroller shall disburse the approved amount to the district's school fund to be deposited to the credit of the area vocational-technical center construction fund to be established by each said district school board: District of Bay County, District of Bradford County, District of Broward County, District of Citrus County, District of Collier County, District of Dade County, District of Escambia County, District of Hillsborough County, District of Lake County, District of Lee County, District of Leon County, District of Manatee County, District of Orange County, District of Palm Beach County, District of Pinellas County, District of Polk County, District of St. Johns County, District of Sarasota County, District of Suwannee County, District of Taylor County, and District of Washington County.

(d) Twenty-two million, four hundred seventy-one thousand, nine hundred sixty-two dollars shall be allocated by the State Board of Education to the Board of Regents for the institutions under its jurisdiction, namely the University of Florida, Florida State University, University of South Florida, Florida Atlantic University, Florida Agricultural and Mechanical University, University of West Florida, the Florida Technological University, Florida International University, and the University of North Florida.

(e) There is hereby appropriated from the Gross Receipts Tax Trust Fund to the Board of Regents of the Division of Universities of the Department of Education the sum of \$1,348,280 to be used for the construction of facilities for the center for training, research and education for the environmental occupations, in accordance with plans adopted by the board. If federal funds become available for such facilities construction, release of this appropriation shall be reduced by an amount equal to the federal funds.

(f) Item 13, Section 2, Page 57 of Chapter 73-335, Laws of Florida, appropriating \$10,000,000 from the General Revenue Fund for the University of Florida, School of Veterinary Medicine is repealed; provided, however, that the amounts from this appropriation that have previously been released and disbursed by state warrants are approved and validated, and there is appropriated for the University of Florida, School of Veterinary Medicine \$10,000,000 from the excess receipts deposited into the Gross Utility Receipts Tax Trust Fund authorized in Section 9(a) of Article XII of the State Constitution; provided further, that the purpose of this appropriation is to first restore to the General Revenue Fund an amount equal to the funds disbursed from the General Revenue Appropriation of 1973-74, and the remainder to be used on the approved fixed capital outlay project for the School of Veterinary Medicine.

(g) Of the \$6,500,000 Appropriated in Item 19, Section 2, Page 130 of Chapter 74-300, Laws of Florida, from the General Revenue Fund to the Division of Universities, Fixed Capital Outlay, Renovations, \$3,000,000 is repealed, provided, however,

that the amounts from this appropriation that have previously been released and disbursed by state warrants are approved and validated, and there is appropriated for the Division of Universities, Fixed Capital Outlay, Renovations, \$3,000,000 from the excess receipts deposited into the Gross Utility Receipts Tax Trust Fund authorized in Section 9(a) of Article XII of the State Constitution; provided, further, that the purpose of this appropriation is to first restore to the General Revenue Fund an amount equal to the funds disbursed from the General Revenue Appropriation of 1974-75, and the remainder to be used by the Division of Universities for Fixed Capital Outlay, Renovation purposes.

(h) From the receipts, in excess of the debt service and reserve requirements deposited into the public education capital outlay and debt service trust fund from the gross receipts taxes, provided in Article XII, Section 9, subsection (a) of the Constitution, as amended, there is hereby appropriated the balance of such excess to the public education facility working capital trust fund established pursuant to this act.

(2) As moneys become available pursuant to section 9(a) of Art. XII of the State Constitution, as amended, the State Board of Education may allocate such moneys among the above authorized projects in such amounts as the board in its discretion shall see fit. However, no allocation to any one group of projects shall exceed the total amount authorized in this section for such group projects.

Section 2. The capital outlay projects approved herein are to be financed in accordance with section 9(a), Art. XII of the State Constitution, as amended, or other legally available state funds, or grants, donations and matching funds, or by a combination of such funds.

Section 3. The sums designated herein are the maximum sums to be expended from funds accruing under section 9(a), Art. XII of the State Constitution, as amended. However, funds appropriated from this source and remaining unexpended from previously authorized projects along with grants, donations, and matching funds from other sources may be added to such maximum sums for any item or category when so approved by the State Board of Education for post-secondary fixed capital outlay projects and with respect to elementary and secondary projects, when approved by the district school board.

Section 4. There is hereby appropriated from the Gross Receipts Tax Trust Fund to the Board of Trustees of the Florida School for the Deaf and Blind the sum of six hundred and forty three thousand and eight hundred dollars to be used for the following projects: Interior and Exterior painting, expansion of the electrical distribution system, repairs of piping and exterior doors, and replacement of refrigeration and air conditioning equipment.

Section 5. Section 235.41, Florida Statutes, 1974 Supplement, is amended to read:

(Substantial rewording of section. See s.235.41, F.S., 1974 Supp., for present text.)

235.41 Legislative budget request; educational facilities assessment; annual report.—

(1) It is the intent of the legislature that all requests for educational facilities construction and fixed capital outlay funds be submitted to the legislature as an integrated comprehensive request. It is the further intent of the Legislature that there be developed a uniform system for inventorying existing facilities, projecting enrollment, assessing needs and for providing such other information as needed which shall be comparable for all levels of education.

(2) The office of educational facilities construction in cooperation with the various divisions of the department of education shall annually prepare at least 120 days prior to the convening of the regular session of the legislature the five-year assessment of educational facilities' needs and a request for funds for the ensuing fiscal year which reflects the actual ability of the various boards and institutions to encumber and expend the funds requested.

(3) The office shall transmit its report of facilities' needs and its request for funds to the commissioner at least 90 days prior to the convening of the regular session of the legislature. Based upon the information provided by the office, the commissioner shall annually prepare a report on

educational facilities which shall include, but not be limited to, the following information:

- (a) A five-year assessment of educational facilities needs.
- (b) A request for fixed capital outlay funds for the ensuing fiscal year for each level of education.
- (c) Recommendations for the priority of expenditure of funds among the various levels of education with reasons for the recommended priorities.
- (d) Other recommendations which relate to the effectiveness of the educational facilities construction program.

(4) The commissioner shall transmit to the legislature his annual report on educational facilities as described in subsection (3) at the same time the governor transmits his recommendations to the legislature for the ensuing fiscal year.

(5) Notwithstanding the provisions of chapter 216, the legislative budget request of the Department of Education for capital outlay funds shall be submitted in accordance with this section.

Section 6. Section 235.42, Florida Statutes, 1974 Supplement, is amended to read:

(Substantial rewording of section. See s. 235.42, F. S., 1974 Supp., for present text.)

235.42 Educational facilities construction funds; educational facilities construction working capital trust fund; allocation of funds.—

(1) The State Board of Education is empowered and directed to receive the funds appropriated by the legislature for the comprehensive school construction and debt service program as established by s.236.084 and any other funds appropriated by the Legislature or from any other source whatsoever which are made available by the state for educational facilities construction at whatever level of education and to provide for the allocation of these funds to the appropriate district school boards, the division of community colleges for each community college board of trustees, the Board of Trustees of the Florida School for the Deaf and the Blind, and the Board of Regents.

(2) A trust fund to be known as the public education facility working capital trust fund, hereinafter called the trust fund, is established in the state treasury. The trust fund is to be used as a revolving fund to provide intermediate or temporary advances for the purpose of expediting planning and construction of authorized and approved public education facilities. The trust fund shall be administered by the commissioner of education, subject to approval by the State Board of Education. The cost of administering the trust fund shall be paid by the Department of Education from funds appropriated to it. All funds available in the trust fund are hereby appropriated to carry out purposes for which it is established. The trust fund shall be comprised of, but not necessarily be limited to:

(a) That portion of the receipts, in excess of the debt service and reserve requirements, deposited into the public education capital outlay and debt service trust fund from the gross receipts taxes, provided in Article XII, Section 9, Subsection (a) of the Constitution, as amended and appropriated to the trust fund.

(b) That portion of the receipts, in excess of debt service and reserve requirements, from the sale of motor vehicle licenses prescribed in Article XII, Section 9, subsection (d) of the Constitution as amended, and are appropriated to the trust fund, however, these receipts and resources shall be maintained in a separate investment account.

(c) That portion of Federal revenue sharing funds appropriated for use in providing public education facilities; provided, however, that the resources of the Federal revenue sharing funds shall be used as a part of the trust fund but may be maintained in a separate investment account.

(d) Such other state funds as are appropriated or authorized by law.

(e) The State Board of Administration is authorized to invest the trust funds of any state supported retirement system and any other state funds available for investment in

loans to the trust fund at a rate of interest that is no less favorable than would have been received had such monies been invested in accordance with authorized practices.

(3) Purpose and use of the trust fund.—The trust fund is to provide a source from which advance funding assurances can be given for approved and authorized public education fixed capital outlay facilities. Monies in the trust fund are to provide temporary advancements necessary to finance planning and construction cost.

(4) Qualifications for fund use.—The following minimum requirements shall be observed in determining eligibility for use of the trust fund:

(a) Agencies authorized to participate in the trust fund are district school boards, boards of trustees of community colleges, and the Board of Regents.

(b) The agency shall make application to the commissioner of education for approval to participate in advance funding from the trust fund. The agency's application shall present evidence that facilities for which advance funding is requested are:

(1) Facilities that have been authorized by law;

(2) Facilities that are to be financed from the sale of State Board of Education bonds authorized in Article XII, Section 9, subsection (d), and that the agency has submitted a resolution requesting the sale of such bonds that has been approved by the state board; or

(3) Projects for which Federal revenue sharing funds have been allocated in an amount to finance facilities or for which such funds, when combined with other monies, are sufficient to finance the proposed project.

(c) The agency shall certify that there are no other funds available to pay planning or construction progress payments.

(d) The agency shall provide a schedule of the estimated advance payments that will be necessary and a repayment schedule of advancements and when applicable, interest to the trust fund.

(5) Interest charged.—When borrowed funds are commingled with appropriated funds and advanced to an agency, that agency shall be charged a rate of interest on the total amount advanced sufficient to discharge a proportionate amount of the debt service of the borrowed funds.

(6) Procedures for administering the trust fund.—

(a) The commissioner of education shall, after determining that the requests for facility advanced funding are eligible, shall recommend the agency's request to the State Board of Education for approval. When approved by the state board, the commissioner shall certify this action to the requesting agency. Upon receipt of this certification from the commissioner, the agency is authorized to enter into contracts for planning or constructing the approved facility.

(b) The agency shall periodically certify to the commissioner that no funds are available to the agency to pay progress payments to contractors when such payments are due within the next thirty days and request an advancement from the trust fund. The commissioner, after determining that the request is reasonable, shall request the state comptroller to issue a warrant payable to the requesting agency and such warrant shall be promptly transmitted.

(c) Agencies that have received advance payments from the trust fund shall repay the total amount of such advancements plus accrued interest, if any, from the proceeds of the next authorized sale of bonds or revenue certificates in which that agency participates, or from the cash receipts deposited in the trust fund that have been allocated to that agency.

Section 7. Section 235.0165, Florida Statutes, is created to read:

235.0165 Delegation of review and approval authority.—A district school board may be exempted from the Office of Educational Facilities Construction's approval process required in Section 235.26(4) if:

(1) The district has satisfactorily demonstrated that it is competent to inspect and approve plans for educational facilities; and

(2) The plans and specifications for an educational facility have been prepared by, and reflect the seal of, a Florida registered architect or a Florida registered professional engineer and such architect or engineer certifies that the documents comply with the provisions of Chapter 235 and all applicable rules and regulations of the State Board of Education.

Section 8. Present subsections (2), (3), (4) and (5) of section 235.211, Florida Statutes, 1974 Supplement, are renumbered as subsections (3), (4), (5) and (6), and a new subsection (2) is added to said section to read:

(2) **COMMUNITY EDUCATIONAL FACILITIES.—**

(a) *Each school district, community college or state university may submit a request to the department for allocation of funds appropriated for the purposes of this section. Such request shall contain the following provisions:*

1. *A detailed statement of the facilities to be constructed. Such statement shall include an analysis of the relationship of educational and community use of the facility.*

2. *The number of public school children and community residents who are estimated to utilize the facility.*

3. *The estimated cost of the facility.*

4. *A resolution or other appropriate indication of intent to participate in the funding and utilization of the facility from a noneducational governmental agency, including community, public and educational broadcasting stations. Such indication shall include a commitment by such governmental agency to provide at least one-third of the cost of the facility.*

(b) *As provided by the provisions of s.235.41, F. S., as amended in section 5 of this act, the commissioner of education shall review such request for allocation and, upon determining compliance with the requirement of paragraph (a) and such other provisions as the commissioner deems appropriate, shall provide the legislature with recommendations for the joint funding of capital outlay projects involving both educational and non-educational governmental agencies.*

Section 9. Section 203.01, Florida Statutes, is amended to read:

203.01 Public service corporations, tax upon gross receipts.—Every person, including municipal corporations, receiving payment for electricity for light, heat or power, for natural or manufactured gas for light, heat or power, for use of telephones, and for the sending of telegrams and telegraph messages, shall ~~annually, on or before March 15,~~ report semi-annually to the Department of Revenue, ~~not later than January 31 for the six months ending December 31 and not later than July 31 for the six months ending June 30,~~ under oath of the secretary or some other officer of such person, the total amount of gross receipts derived from business done within this state, or between points within this state, for the preceding ~~six months~~ ~~calendar year~~ and, at the same time, shall pay into the state treasury the sum of \$1.50 upon each \$100 of such gross receipts. The term "gross receipts" as used herein shall not include gross receipts of any person derived from the sale of natural gas to a public or private utility, including municipal corporations and rural electric cooperative associations, either for resale or for use as fuel in the generation of electricity. If any person fails to make such report to the department and pay the tax as herein provided, the department shall, after having given at least 5 days' notice to such person or some official or representative thereof within this state, estimate the amount of such gross receipts from such information as it may be able to obtain and shall add 10 percent of the amount of such taxes as a penalty, for the failure of such person to make report, and shall proceed to collect such tax, together with all costs and the penalty, the same as other delinquent taxes are collected; provided, no penalty shall be added as aforesaid if a return is made and the amount due is paid to the state treasurer before the expiration of the time stated in the department's notice aforesaid.

Section 10. The first semi-annual report and tax payment required by Section 9 of this act shall be filed not later than July 31, 1975, with the Department of Revenue for the six months ending June 30, 1975.

Section 11. Paragraphs (h) and (i) of subsection (1), paragraph (d) of subsection (2), and subsection (3) of Section 236.084, Florida Statutes, 1974 Supplement, are amended to read:

236.084 Funds for comprehensive school construction and debt service.—The annual allocation from the Florida Education Finance Program to each district for the comprehensive school construction and debt service program shall be determined as follows:

(1) Pursuant to regulations of the state board, the commissioner shall determine annually the projected school plant and annual debt service needs for each school district and report this to the legislature. In determining these needs and in making the report the commissioner shall include at least the following elements:

(h) Amount of additional resources available pursuant to the provisions of s.9(a)(2) and (d), Art. XII of the State Constitution as amended in 1974 ~~1973~~.

(i) Amount of funds from other sources available to the school board and earmarked for capital outlay purposes; provided that funds available and earmarked for capital outlay purposes from the current tax levied on nonexempt property by the district school board for operating expenses shall not be considered in determining the unmet need until the school board encumbers or expends such funds.

(2) The commissioner shall determine annually the amount allocated to each district from the funds appropriated for the purpose of implementing this section as follows:

(d) The funds appropriated annually for the purpose of implementing this section shall be allocated to the respective districts in proportion to their percentage of the state total of unfunded school plant and debt service needs as determined above for the fiscal year immediately preceding the fiscal year for which the funds are appropriated.

(3) Funds accruing to a district from the provisions of this section shall be expended on needed projects as shown by a survey or surveys in the district under regulations of the state board. The priority of expenditure by districts shall be as follows:

(a) New classrooms and special instructional facilities necessary to provide needed ~~student pupil~~ stations at either a new or existing school center in order to alleviate overcrowding and to eliminate multiple daily sessions ~~or to provide needed student stations as determined by student population projections and the district school plant survey;~~ school sites or additions to sites and site improvement, incident to new construction or to make a site addition usable; restoration and correction as required by s.235.06 of deficiencies which produce an unsafe, unhealthy, or unsanitary environment for occupants of school facilities, except that, based upon the need as determined by the commissioner in the formula calculations, up to one-tenth of a district's annual allocation shall be expended on restoration and correction of such deficiencies. *In addition, up to two-tenths of a district's annual allocation may be expended on facilities or projects as described in paragraph (b) and which are recommended in the latest district school plant survey.*

(b) Special instructional and auxiliary facilities needed to improve the program at a school center, but not necessary to increase the ~~student pupil~~ stations;

~~(c)~~ major alterations to existing buildings which would substantially improve the utility of the space; or

~~(d)~~ replacement of, or major alterations to, the existing heating, cooling, lighting, and sanitary facilities at a permanent school center.

(c) Debt service for district bonds serviced by voted ad valorem taxes; provided, however, that none of the proceeds from bonds sold under the provisions of s.9(a)(2) and (d), Article XII of the State Constitution as amended in 1974, may be used for these payments.

Section 12. Section 215.61, Florida Statutes, is amended to read:

215.61 State system of public education capital outlay bonds for capital outlay.—

(1) The issuance of school bonds, payable primarily from revenues as provided in section 18, Art. XII of the State Constitution of 1885, as amended, and additionally secured by pledging the full faith and credit of the state, is hereby authorized pursuant to the provisions of section 9(d), Art. XII of the State Constitution and the provisions of ss. 215.57-215.83, "The State Bond Act," except where excluded ~~this Act~~.

(2) The issuance of bonds to finance or refinance capital outlay projects authorized by the Legislature for the state system of public education, primarily payable from revenues as provided in section 9, Art. XII of the State Constitution of 1885, as amended, and additionally secured by pledging the full faith and credit of the state, is hereby authorized pursuant to the provisions of section 9(a)(2), Art. XII of the State Constitution, and the provisions of ss. 215.57-215.83, "The State Bond Act."

(3) No bonds authorized by Section 9(a)(2), Art. XII, of the State Constitution, shall be issued in an amount exceeding 90 percent of the amount which the State Board of Education determines can be serviced by the revenues derived from the gross receipts tax levied and collected pursuant to chapter 203. In determining the amount which can be serviced by the gross receipts tax, the State Board of Education shall utilize the average annual amount of revenue collected for the eight quarters immediately preceding the determination; provided that 100 percent of the amount required to provide for the debt service for any fiscal year of the bonds issued prior to July 1, 1975, under the provisions of section 9(a), Art. XII of the State Constitution, shall be deducted in making the determination.

(4) With respect to the bonds authorized by section 9, Art. XII of the State Constitution, the Division of Bond Finance shall act as the agent of the State Board of Education pursuant to ss. 215.57-215.83, "The state Bond Act."

(5) The State Board of Education shall have the power to make and enforce all rules and regulations necessary to the full exercise of the powers herein granted.

Section 14. Subsection (1) of Section 235.31, Florida Statutes, 1974 Supplement, is amended to read:

235.31 Advertising and awarding contracts for building or improvements.—

(1) As soon as practicable after any bond issue has been voted upon and authorized or funds have been made available for the construction, repair, alteration, or otherwise for the improvement of any education facility, school building, and after plans for the work have been approved by the office, the school board, after advertising the same in the manner prescribed by law, shall award the contract for such building or improvements to the lowest responsible bidder therefor; provided, that the school board may within its discretion reject any and all bids received if it deems the same expedient, and may readvertise, calling for new bids. For a project costing \$50,000 ~~\$20,000~~ or less, the public education authority ~~school board~~ may arrange for the building to be erected on a day labor basis.

Section 13. Chapter 235, Florida Statutes, is hereby redesignated as "Educational Facilities".

Section 14. Severability clause.—If any provision of this act is for any reason held or declared to be unconstitutional, inoperative or void, such holding or declaration shall not affect the remaining portions of this act; and toward this end the provisions of this act are declared to be severable.

Section 15. This act shall take effect July 1, 1975.

Representatives Hodes and Andrews offered the following amendment to Senate Amendment 2:

House Amendment 1 to Senate Amendment 2—On pages 1, 2, 3, 4, 5, strike all and through line 8 of page 6 and insert: Section 1. The Legislature hereby finds and determines that the items and sums designated in this section shall constitute authorized capital outlay projects within the meaning and as required by section 9(a), Art. XII of the State Constitution, as amended, and s. 240.141, Florida Statutes, and any other law. In accordance therewith, the moneys in the following items

are authorized to be expended for the enumerated authorized fixed capital outlay projects.

(1) From moneys becoming available pursuant to the provisions of section 9(a), Art. XII of the State Constitution, as amended:

(a) Seventy-five million dollars shall be allocated by the State Board of Education through the office of Educational Facilities Construction to the district school boards of the 67 school districts listed below. The office of Educational Facilities Construction shall determine each district's allocation of the amount authorized in this act using the criteria set forth in s. 236.084, Florida Statutes. Funds accruing to each district under this authorization shall be considered a part of the annual allocation from the Florida Education Finance Program for the comprehensive school construction and debt service program. The office of Educational Facilities Construction shall request the Comptroller to disburse funds to each district and, after the approval of such request by the Department of Administration, the Comptroller shall disburse the approved amount to the district's school fund to be deposited to the credit of the district capital outlay and construction fund to be established by each district school board: District of Alachua County, District of Baker County, District of Bay County, District of Bradford County, District of Brevard County, District of Broward County, District of Calhoun County, District of Charlotte County, District of Citrus County, District of Clay County, District of Collier County, District of Columbia County, District of Dade County, District of DeSoto County, District of Dixie County, District of Duval County, District of Escambia County, District of Flagler County, District of Franklin County, District of Gadsden County, District of Gilchrist County, District of Glades County, District of Gulf County, District of Hamilton County, District of Hardee County, District of Hendry County, District of Hernando County, District of Highlands County, District of Hillsborough County, District of Holmes County, District of Indian River County, District of Jackson County, District of Jefferson County, District of Lafayette County, District of Lake County, District of Lee County, District of Leon County, District of Levy County, District of Liberty County, District of Madison County, District of Manatee County, District of Marion County, District of Martin County, District of Monroe County, District of Nassau County, District of Okaloosa County, District of Okeechobee County, District of Orange County, District of Osceola County, District of Palm Beach County, District of Pasco County, District of Pinellas County, District of Polk County, District of Putnam County, District of St. Johns County, District of St. Lucie County, District of Santa Rosa County, District of Sarasota County, District of Seminole County, District of Sumter County, District of Suwannee County, District of Taylor County, District of Union County, District of Volusia County, District of Wakulla County, District of Walton County, and District of Washington County.

(b) Twenty-eight million five hundred thousand dollars shall be allocated by the State Board of Education to the boards of trustees for the named community colleges listed below. Upon request of a board of trustees and after the approval of such request by the Department of Administration, the Comptroller shall disburse the approved amount to be deposited to the credit of each community college construction fund: Santa Fe Community College, Gulf Coast Community College, Brevard Community College, Broward Community College, Lake City Community College, Miami-Dade Community College, Florida Junior College at Jacksonville, Pensacola Junior College, South Florida Junior College, Hillsborough Community College, Chipola Junior College, Lake-Sumter Community College, Edison Community College, Tallahassee Community College, North Florida Junior College, Manatee Junior College, Central-Florida Community College, Florida Keys Community College, Okaloosa-Walton Junior College, Valencia Community College, Palm Beach Junior College, St. Petersburg Junior College, Pasco-Hernando Community College, Polk Community College, St. Johns River Junior College, Indian River Community College, Seminole Junior College and Daytona Beach Community College.

(c) Nineteen million five hundred thousand dollars shall be allocated by the State Board of Education to the district school boards of the following districts for area vocational-technical centers in the named districts. Upon request of a district school board and after the approval of such request by the Department of Administration, the Comptroller shall

disburse the approved amount to the district's school fund to be deposited to the credit of the area vocational-technical center construction fund to be established by each said district school board: District of Bay County, District of Bradford County, District of Broward County, District of Citrus County, District of Collier County, District of Dade County, District of Escambia County, District of Hillsborough County, District of Lake County, District of Lee County, District of Leon County, District of Manatee County, District of Orange County, District of Palm Beach County, District of Pinellas County, District of Polk County, District of St. Johns County, District of Sarasota County, District of Suwannee County, District of Taylor County, and District of Washington County.

(d) Twenty-seven million dollars shall be allocated by the State Board of Education to the Board of Regents for the institutions under its jurisdiction, namely the University of Florida, Florida State University, University of South Florida, Florida Atlantic University, Florida Agricultural and Mechanical University, University of West Florida, the Florida Technological University, Florida International University, and the University of North Florida.

(2) As moneys become available pursuant to section (a) of Art. XII of the State Constitution, as amended, the State Board of Education may allocate such moneys among the above authorized projects in such amounts as the board in its discretion shall see fit. However, no allocation to any one group of projects shall exceed the total amount authorized in this section for such group projects.

Section 2. The capital outlay projects approved herein are to be financed in accordance with section 9(a), Art. XII of the State Constitution, as amended, or other legally available state funds, or grants, donations and matching funds, or by a combination of such funds.

Section 3. The sums designated herein are the maximum sums to be expended from funds accruing under section 9(a), Art. XII of the State Constitution, as amended. However, funds appropriated from this source and remaining unexpended from previously authorized projects along with grants, donations, and matching funds from other sources may be added to such maximum sums for any item or category when so approved by the State Board of Education for post-secondary fixed capital outlay projects and with respect to elementary and secondary projects, when approved by the district school board.

Section 4. There is hereby appropriated from the Gross Receipts Tax Trust Fund to the Board of Regents of the Division of Universities of the Department of Education the sum of one million three hundred and forty eight thousand two hundred eighty dollars to be used for the construction of facilities for the center for training, research, and education for the environmental occupations, in accordance with plans adopted by the board. If federal funds become available for such facilities construction, release of this appropriation shall be reduced by an amount equal to the federal funds.

Section 5. There is hereby appropriated from the Gross Receipts tax trust fund to the Board of Trustees of the Florida School for the Deaf and Blind the sum of six hundred and forty three thousand and eight hundred dollars to be used for the following projects: Interior and Exterior painting, expansion of the electrical distribution system, repairs of piping and exterior doors, and replacement of refrigeration and air conditioning equipment.

House Amendment 2 to Senate Amendment 2—On page 7, line 23, strike all of section 6 and insert: Section 6. Section 235.42, Florida Statutes, 1974 Supplement, is amended to read:

(Substantial rewording of section. See s.235.42, F. S., 1974 Supp., for present text.)

235.42 Educational facilities construction funds; educational facilities construction working capital trust fund; allocation of funds.—

(1) The State Board of Education is empowered and directed to receive the funds appropriated by the legislature for the comprehensive school construction and debt service program as established by s.236.084 and any other funds appropriated by the legislature or from any other source whatsoever which are made available by the state for educational facilities construction at whatever level of education and to provide for the allocation of these funds to the appropriate

district school boards, the division of community colleges for each community college board of trustees, the Board of Trustees of the Florida School for the Deaf and the Blind, and the Board of Regents.

(2) There is hereby established in the state treasury a trust fund to be known as the educational facilities working capital trust fund. The Commissioner of Education through the office of educational facilities construction shall administer the trust fund and shall provide for the temporary advance of funds to the various boards and institutions eligible to receive such funds in order to finance the planning and actual construction costs of educational facilities which have been recommended by the commissioner in his annual report on educational facilities and which have been approved by the legislature. The department of education shall pay the administrative costs of the trust fund from the funds which comprise the trust fund.

(3) The trust fund shall be comprised of the following:

(a) That portion of the revenues, in excess of the debt service and reserve requirements, which accrue from the gross receipts tax;

(b) That portion of the revenues, in excess of the debt service and reserve requirements, which accrue for educational facilities construction from the sale of motor vehicle licenses as provided in s.9(d), Art. XII of the state constitution;

(c) That portion of federal revenue sharing funds appropriated for educational facilities construction; and

(d) Any other funds for educational facilities construction.

Provided, however, that any funds required by law to be segregated or maintained in separate accounts shall be segregated or maintained in such manner that the relationship between program and revenue source is retained. Nothing in this subsection shall be construed so as to limit the use by the educational facilities working capital trust fund of the resources of funds so segregated or maintained.

(4) The State Board of Administration is authorized to invest the trust funds of any state supported retirement system and any other state funds available for investment in loans to the trust fund at a rate of interest that is no less favorable than would have been received had such monies been invested in accordance with authorized practices.

(5) Agencies authorized to participate in the trust fund are district school boards, the division of community colleges for each community college board of trustees, the Board of Trustees of the Florida School for the Deaf and the Blind, and the Board of Regents.

(6) The agency shall make application to the office of educational facilities construction for approval to participate in advance funding from the trust fund. The agency's application shall present the following information relative to the facilities for which advance funding is requested:

(a) Proof that the facility or project has been authorized by the legislature in the approval of the commissioner's annual report on educational facilities;

(b) The facility or project is intended to be financed from the sale of bonds pursuant to either s.9 (a) or s.9(d), Article XII of the state constitution;

(c) Certification that sufficient funds have been allocated to finance the proposed facility or project or that sufficient funds shall be combined from various sources, including Federal revenue sharing funds, to finance the proposed facility or project;

(d) Certification that there are no other funds currently available to pay for planning or actual construction costs; and

(e) A schedule of the estimated advance payments necessary and a schedule of the repayment of advances and any interest, where applicable, to the trust fund.

(7) When borrowed funds are commingled with working capital trust funds and advanced to an agency, that agency shall be charged a rate of interest on the total amount advanced sufficient to discharge a proportionate amount of the debt service of the borrowed funds.

(8) The office of educational facilities construction, after determining that the request for facility advanced funding is eligible, shall recommend the agency's request to the State Board of Education for approval. When approved by the State Board, the office shall certify this action to the requesting agency. Upon receipt of this certification from the office the agency is authorized to enter into contracts for planning or constructing the approved facility. The agency shall certify to the office that no funds are available to the agency to pay progress payments to contractors when such payments are due within the next 90 days and request an advancement from the trust fund. The office, after determining that the request is reasonable, shall request the state comptroller to issue a warrant payable to the requesting agency and such warrant shall be promptly transmitted. The office is empowered to provide for the release of funds to individual boards and institutions so as to assure that the funds are expended in the most effective and efficient manner practicable. The intent of the legislature is to assure that facilities to provide needed adequate student stations for all students be constructed as rapidly as possible. Agencies that have received advance payments from the trust fund shall repay the total amount of such advancements plus accrued interest, if any, from the proceeds of the next authorized sale of bonds or revenue certificates in which that agency participates, or from any cash receipts deposited in the trust fund that have been allocated to that agency.

(9) The allocation to each district school board, the division of community colleges for each community college board of trustees, the Board of Trustees of the Florida School for the Deaf and the Blind, and the Board of Regents shall be cumulative and shall reflect the allocations recommended by the commissioner in his annual report and as approved by the legislature; provided that only 90 percent of the amount appropriated by the legislature each year for educational facilities constructed by district school boards shall be allocated pursuant to s.236.084. The remaining 10 percent of the amount appropriated shall be allocated, under rules adopted by the state board, by the office of educational facilities construction to those district school boards where it is shown that the five-year unmet need of the district is such that the normal allocation, projected over the five-year needs assessment period and taken in combination with all other available sources of funds for capital outlay as provided in s.236.084 for the same period, cannot provide any of the facilities needed. Any district which receives funds pursuant to this subsection shall not receive its regular annual allocation from the comprehensive school construction and debt service program for a period not to exceed 10 years or until the amount received pursuant to this subsection is equal to the cumulative amount the district would have received under s.236.084, whichever occurs first.

In the event that any or all of the amount reserved cannot be allocated pursuant to this subsection, that amount shall revert to the comprehensive school construction and debt service program and shall be allocated in accordance with s.236.084.

House Amendment 3 to Senate Amendment 2—On page 11, line 17, strike all of section 7. And renumber subsequent sections.

House Amendment 4 to Senate Amendment 2—On page 12, line 1, strike all of section 8. And renumber subsequent sections.

House Amendment 5 to Senate Amendment 2—Insert: page 17, line 24

change Section 14 to Section 13
page 18, line 9

change Section 13 to Section 14
page 18, line 11

change Section 14 to Section 15
page 18, line 17

change Section 15 to Section 16

Senate Amendment 6—On page 1, line 3, strike lines 3—17 and insert: A bill to be entitled An act relating to education; authorizing the State Board of Education to issue bonds in

accordance with the provisions of the state constitution; specifying the purposes and maximum amounts for such bonds; amending s.235.41, Florida Statutes, 1974 Supplement, relating to budget requests for capital outlay, to provide that requests for educational facilities construction and fixed capital outlay funds be submitted, for each level of education, through the Commissioner of Education upon the basis of a 5-year assessment of needs; amending s.235.42, Florida Statutes, 1974 Supplement, relating to educational construction and debt service, to create the Educational Facilities Working Capital Trust Fund, designating the sources of revenue to the fund, and providing for allocation to the district school boards, Division of Community Colleges, the Board of Trustees of the Florida School for the Deaf and the Blind, and Board of Regents through the Office of Educational Facilities Construction; amending Section 235.211(2)-(5), Florida Statutes, 1974 Supplement, adding a new subsection to said section; providing for funding construction of community education facilities; amending Section 235.0165, Florida Statutes; delegating review and approval authority; amending section 203.01, Florida Statutes, to provide semi-annual collections of the gross receipts taxes; providing for the first such payment; amending s. 236.084(1)(h), (i), (2)(d), and (3), Florida Statutes, 1974 Supplement, relating to the allocation of funds for school construction and debt service; modifying provisions relating to determination of unmet needs, determination of district percentage of state unfunded school plant and debt service needs, and provisions relating to student stations and special facilities; amending section 215.61, Florida Statutes; implementing the provisions of subsection (a)(2) of Section 9 of Article XII of the Florida Constitution; authorizing the issuance of bonds to finance and refinance capital projects authorized by the legislature of Florida for the state system of public education; amending s.235.31(1), Florida Statutes, 1974 Supplement, relating to bids on school building construction, to increase the maximum cost of projects as to which school boards may arrange for construction on a day labor basis; redesignating chapter 235 as "Educational Facilities;" providing severability; providing an effective date.

House Amendment 1 to Senate Amendment 6—On page 2, line 6, strike "providing for funding construction of community education facilities;"

House Amendment 2 to Senate Amendment 6—On page 1, line 2—6, strike all and insert: An act relating to provide for fixed capital outlay projects at school plants; providing legislative intent; providing for allocation of certain moneys for such projects undertaken by district school boards, community colleges, area vocational-technical centers, Board of Trustees of the Florida School for the Deaf and the Blind of the Department of Education, and institutions under the Board of Regents of the Division of Universities of the Department of Education; providing conditions upon the financing of such projects; providing certain limitations; providing an appropriation;

House Amendment 3 to Senate Amendment 6—On page 2, line 8, strike "Amending s.235.0165, F.S., delegating review and approval authority;"

On motions by Senator Gordon, the Senate refused to concur in House amendments to Senate amendments 2 and 6 to HB 1909 and the House was requested to recede, and in the event the House refused to recede a conference committee was requested to adjust the differences. The action, with the bill and amendments, was certified to the House. The vote was:

Yeas—37

Mr. President	Hair	Plante	Thomas, P.
Brantley	Henderson	Poston	Trask
Childers, D.	Holloway	Renick	Vogt
Childers, W. D.	Johnston	Saunders	Ware
Deeb	Lane, J.	Sayler	Wilson
Dunn	Lewis	Scarborough	Winn
Firestone	MacKay	Sims	Zinkil
Gallen	McClain	Spicola	
Gordon	Myers	Stolzenburg	
Graham	Peterson	Thomas, J.	

Nays—None

The Honorable Dempsey J. Barron, President

June 3, 1975

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By Senator J. Thomas—

SB 551—A bill to be entitled An act relating to the Municipal Firemen's Pension Trust Fund; amending s.175.111, Florida Statutes; requiring insurance companies insuring property within municipal limits of municipalities covered by the fund to include the city code designations of the insured property in the required annual report; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment 1—On page 2, lines 27 and 28, strike all of said lines and insert:

Section 2. Subsections (12), (13), (14), (15), (16) and (17) are added to section 633.021, Florida Statutes, to read:

633.021 Definitions.—

(12) A "fire protection system" consists of an automatic or manual sprinkler system designed to protect the interior or exterior of a building or structure from fire. Such systems shall include, but not be limited to, water sprinkler systems, water spray systems, foam water sprinkler systems, foam water spray systems, CO₂ systems, foam extinguishing systems, dry chemical systems, Halon and other chemical and automatic alarm systems used for fire protection use. Such systems shall also include the overhead and underground water mains, fire hydrants and hydrant mains, standpipes and hose connections to sprinkler systems, sprinkler tank heaters, air lines and thermal systems used in connection with sprinkler and automatic alarm systems, and tanks and pumps connected thereto.

(13) "Contractor" means one whose business includes the execution of contracts requiring the art, ability, experience, knowledge, science and skill to intelligently lay out, fabricate, install, inspect, alter, repair or service all types of fire protection systems, piping or tubing and appurtenances and equipment pertaining thereto, including both overhead and underground water mains, fire hydrants and hydrant mains, standpipes and hose connections to sprinkler systems, sprinkler tank heaters, air lines and thermal systems used in connection with sprinkler and alarm systems, and tanks and pumps connected thereto.

(14) "Contracting" means engaging in business as a contractor.

(15) "Board" means the Florida Fire Safety Board.

(16) "Certificate" means a certificate of competency issued by the state fire marshal.

(17) "Certification" means the act of obtaining or holding a certificate of competency from the state fire marshal.

Section 3. Subsection (6) of section 633.061, Florida Statutes, is amended to read:

633.061 License or permit required of organizations and individuals servicing, recharging, repairing, testing, inspecting or installing all fire extinguishers and systems.—

(6) The provisions of this chapter shall not apply to inspections by fire chiefs, fire inspectors, fire marshals, or insurance company inspectors.

Nor shall a licensed plumbing contractor be required to be certified under this act to install standpipe systems and the following items connected thereto: overhead and underground water mains, fire hydrants and hydrant mains, hose connections, tanks and pumps, and sprinkler heads in trash chutes and in trash rooms. The provisions of this chapter relating to licenses and permits shall not apply to those engaged in the business of servicing, recharging, repairing, testing, and inspecting automatic water sprinkler systems, water spray systems, foam water sprinkler systems, and foam water spray systems.

Section 4. Section 633.065, Florida Statutes, is created to read:

633.065 Requirements for installation of fire protective equipment.—The requirements for installation of fire protective equipment are as follows:

(1) Contractors of fire safety and fire protective equipment required by the state fire marshal's rules and regulations shall be licensed under s.633.061.

(2) Equipment supplied shall be approved by a nationally recognized testing laboratory, such as Underwriters Laboratories, Inc., or Factory Mutual Laboratories, Inc., and installed in accordance with their procedures.

(3) Equipment shall be installed in accordance with the applicable standards of the National Fire Protection Association and procedures approved by said testing laboratories.

(4) Each piece of equipment supplied shall be guaranteed for a period of 1 year against defects in material or operation.

(5) The contractor shall furnish the user with operating instructions for all equipment installed, together with a diagram of the final installation.

(6) Each manufacturer or supplier of such equipment shall furnish the consumer with descriptive literature concerning equipment sold, together with mechanical drawings and specifications for proper installation and use of the equipment.

Section 5. The provisions of this act relating to certification and contracting as a fire protection systems contractor shall apply to those so engaged in the business of contracting for fire protection systems.

Section 6. (1) The Florida Fire Safety Board is hereby created consisting of five members who are citizens and residents of this state. One shall be the state fire marshal or his designated appointee who shall be an administrative employee of said marshal, one shall be an administrative officer from a building department representing an incorporated municipality or representing a county, one shall be an administrative officer from a fire department representing an incorporated municipality or a county, and two members shall be contractors.

(2)(a) To be eligible for appointment, each contractor shall personally hold a current certificate of competency and a current license issued by the state fire marshal, together with an unexpired occupational license to operate as a contractor issued by an incorporated municipality or a county, and be actively engaged in such business and have been so engaged for a period of not less than 5 consecutive years before the date of his appointment and be a citizen and resident of the state.

(b) The first two contractor members of the board need not hold a certificate of competency or a license issued by the state fire marshal.

Section 7. (1) Within 30 days after the effective date of this act, the governor shall appoint the members of the board. The state fire marshal's or his designated administrative employee's term on the board shall coincide with the state fire marshal's term of office. Of the other four members of the board, one member shall be appointed for a term of 1 year, one member for a term of 2 years, one member for a term of 3 years and one member for a term of 4 years. All terms expire on June 30 of the last year of the term. As the terms of members expire, the governor shall appoint a member to fill the vacancy for a term of 4 years. Vacancies in the membership of the board for any cause shall be filled by appointment by the governor for the balance of the unexpired term.

(2) The board shall act in an advisory capacity to the state fire marshal and shall meet regularly as the need presents itself. As soon as practicable after the effective date of this act, the board shall meet to elect officers from its membership, whose terms shall expire on June 30 and annually thereafter. A majority of the board shall constitute a quorum. No member of the advisory board shall be paid a salary, as such member, but shall receive necessary expenses while attending advisory board meetings and reimbursement including travel in performance of his duties as provided in s.112.061, Florida Statutes.

(3) The state fire marshal is authorized, with the advice of the board, to adopt rules and regulations to carry out the provisions of this act.

(4) The state fire marshal or his duly appointed hearing officer may administer oaths and take testimony about all

matters within the jurisdiction of this act. Chapter 120, Florida Statutes, governs hearings conducted by or on behalf of the state fire marshal.

(5) The board shall adopt a seal for its use containing the words "Florida Fire Safety Board".

Section 8. All moneys collected by the state fire marshal pursuant to this act are hereby appropriated for the use of the state fire marshal in the administration of this act and shall be deposited in the State Fire Marshal's Trust Fund.

Section 9. (1) To obtain a certificate, an applicant shall submit an application in writing to the state fire marshal containing a statement that this applicant desires the issuance of a certificate on a form containing the information prescribed which shall be accompanied by the fee fixed herein.

(2)(a) Examinations shall be held at times and places within the state as the state fire marshal determines, but there shall be at least two examinations a year. Each applicant shall take an objective, written examination about his fitness for a certificate as a contractor of fire protection systems. The examination of the applicant shall cover his knowledge of this art, ability, experience, knowledge, science and skill to intelligently lay out, fabricate, install, alter or repair all types of fire protection systems, and their appurtenances. It shall be an open-book examination consisting of multiple-choice, fill-in, true-false or short-answer questions and may include or consist of diagrams, plans or sketches in connection with which the applicant is required to demonstrate his knowledge of construction by answering questions keyed to such diagrams, plans or sketches. All examinations shall be prepared by an independent professional testing agency, subject to approval of the board.

(b) A passing grade on the examination is 70 percent, and such examinations shall be developed and administered by an independent professional testing agency. The tests shall be in compliance with accepted professional testing standards.

(3) Upon receipt of the fee and application, the state fire marshal shall investigate the financial responsibility and credit and business reputation of the applicant and of any business organization on behalf of which he proposes to engage in contracting, as well as the education and experience of the applicant. As a prerequisite to taking the examination, the applicant shall possess the required skill, knowledge and 4 years' proven experience in the employment of a contractor or educational equivalent thereto, or a combination thereof. Within 30 days from the date of the examination, the state fire marshal shall inform the applicant in writing whether he has qualified or not and, if the applicant has qualified, that he is ready to issue a certificate of competency, subject to compliance with the requirements of subsection (4).

(4) As a prerequisite to issuance of a certificate, the state fire marshal shall require the applicant to submit satisfactory evidence that he has obtained public liability and property damage insurance, or qualifies as a self-insurer, for the safety and welfare of the public in amounts and in a manner to be determined by the state fire marshal. Thereupon, the certificate shall be issued forthwith.

(5) If an applicant for an original certificate, after having been notified to do so, does not appear for examination within 1 year from the date of filing his application, the fee paid by him shall be forfeited. New applications for a certificate shall be accompanied by another application fee fixed by this act. Forfeiture of a fee may be waived by the state fire marshal for good cause.

(6) When a certificate holder desires to engage in contracting in any area of the state, as a prerequisite therefor, he shall only be required to exhibit to the local building official, tax collector or other person in charge of the issuance of licenses and building permits in the area, evidence of holding a current certificate accompanied by the fee for the occupational license and building permit required of other persons. The certificate shall not be transferable.

Section 10. (1). When an individual proposes to do business in his own name, certifications, when granted, shall be issued only to that individual.

(2) If the applicant proposing to engage in contracting as a business organization, such as a partnership, corporation, business trust or other legal entity, the application shall state the name of the partnership and its partners, or the name of

the corporation and its officers and directors, or the name of the business trust and its trustees, or the name of such other legal entity and its members, and furnish evidence of statutory compliance if a fictitious name is used. Such application shall also show that the person applying for the examination is legally qualified to act for the business organization in all matters connected with its contracting business, and that he has authority to supervise construction undertaken by such business organization. The certification, when issued upon application of a business organization, shall be in the name of such business organization and the name of the qualifying individual or individuals shall be noted thereon.

(3)(a) At least one member or supervising employee of the business organization as designated to the state fire marshal by such organization shall be certified under this act in order for the business organization to hold a current certificate as a contractor. If any individual so certified on behalf of such business organization ceases to be affiliated with such business organization, he shall inform the state fire marshal as provided in paragraph (b). In addition, if such individual is the only certified individual affiliated with the business organization, the business organization shall notify the state fire marshal of the individual's termination and shall have a period of 60 days beyond the next examination in which to certify another person under the provisions of this act, failing which the certification of the business organization shall be subject to revocation by the state fire marshal.

(b) The certified individual shall also inform the state fire marshal in writing when he proposes to engage in contracting in his own name or to affiliate with another business organization, and he or such new business organization shall supply the same information to the state fire marshal as required for applicants under this act.

(c) If a certificate holder changes his name, style, address or employment from that which appears on his current certificate, he shall notify the state fire marshal of the change within 30 days after it occurs.

(d) After an investigation of the financial responsibility, credit and business reputation of the individual or the new business organization, upon a favorable determination, the state fire marshal shall forthwith issue without charge or examination a new certificate in the individual's name or in the name of the new business organization, as provided above.

(e) In the event of the death of a sole proprietor or in the event a business organization has only one certificate holder and that person dies, the individual's estate, personal representative or the business organization, as the case may be, shall notify the state fire marshal and shall have the right to continue in business, complete all contracts, bid on and be awarded new contracts, even though awarded after the death of the certificate holder, for a period of 60 days after the next examination by the state fire marshal following the death of the certificate holder.

(4) When the certified business organization makes application for an occupational license in any municipality or county of this state, the application shall be made with the tax collector in the name of the business organization, and the license, when issued, shall be issued to the business organization upon payment of the appropriate licensing fee and exhibition to the tax collector of a valid certificate issued by the board.

Section 11. Certificates shall expire annually at midnight on June 30. Failure to renew the certificate during June shall cause the certificate to become inoperative, and it is unlawful thereafter for any person to engage or offer to engage or hold himself out as engaging in contracting under the certificate unless the certificate is restored or reissued.

(1) A certificate which is inoperative because of failure to renew shall be restored on payment of the proper renewal fee, if the application for restoration is made within 90 days after June 30. If the application for restoration is not made within the 90-day period, the fee for restoration shall be equal to the original application fee and, in addition, the state fire marshal may require reexamination of the applicant.

(2) A person who holds a valid certificate from the state fire marshal may go on inactive status during which time he shall not engage in contracting but may retain his certificate on an inactive basis on payment of an annual renewal fee during the inactive period, not to exceed \$10 per year.

Section 12. The initial application fee for a certificate shall be \$150. The annual renewal fee shall be \$75.

Section 13. (1) All information required by the board or state fire marshal of any applicant for certification shall be a public record, except financial information and examination grades which are confidential and shall not be discussed with anyone except members of the board and the state fire marshal's staff, but the applicant is entitled to see his examination papers and grades. An applicant may waive in writing the confidentiality of his examination for the purpose of discussion at meetings of the board or the state fire marshal.

(2) All examinations shall be retained for a period of 5 years from the date of the examination.

Section 14. (1) It is unlawful for any person to engage in the business or act in the capacity of a contractor without having been duly certified and holding a current annual renewal certificate, except as hereinafter provided.

(2) Any person who violates any provision of this act or commits any of the acts constituting cause for disciplinary action as herein set forth is guilty of a misdemeanor of the second degree, punishable as provided in s.775.082 or s.775.083, Florida Statutes.

(3) All persons contracting as defined herein shall register with the state fire marshal unless they are certified. Persons presently engaged in such contracting business shall register with the state fire marshal by July 1, 1976. Persons later entering the business of contracting as defined herein shall register with the state fire marshal prior to engaging in business as a contractor unless they are certified. To be registered the applicant shall file evidence of holding a current county, city or municipal occupational license as a contractor as defined herein on a form prescribed by the state fire marshal, together with evidence of successful compliance with the local examination and licensing requirements, if any, in the area for which the registration is desired, accompanied by a registration fee of Seventy-five dollars with an annual renewal fee of Fifty dollars. Registrations shall expire annually at midnight on June 30. Registration permits the registrant to engage in contracting only in the area covered by the registration.

Section 15. (1) The state fire marshal may investigate the illegal action of any contractor certified under this act and hold hearings pursuant to chapter 120, Florida Statutes.

(2) The following acts constitute cause for disciplinary action:

(a) Wilfull or deliberate disregard and violation of the applicable building codes or laws of the state or any municipality or county thereof.

(b) Diversion of funds or property received for prosecution or completion of a specified construction project or operation where as a result of the diversion the contractor is or will be unable to fulfill the terms of his obligation or contract.

(c) Disciplinary action by any municipality or county which action shall be reviewed by the state fire marshal before he takes any disciplinary action of his own.

(d) Failure in any material respect to comply with the provisions of this act.

(3) The state fire marshal is authorized to take the following disciplinary action:

(a) Suspend the certificate holder from all operations as a contractor during the period fixed by the state fire marshal, but he may permit the certificate holder to complete any contracts then incomplete.

(b) Revoke a certificate.

(c) Impose an administrative fine or penalty not to exceed \$500 which shall be recoverable by the state fire marshal only in an action at law.

(4) After suspension of the certificate on any grounds set forth in this act, the state fire marshal may remove the suspension on proof of compliance by the contractor with all conditions prescribed by him for removal of suspension or, in the absence of such conditions, in the sound discretion of the state fire marshal.

(5) After revocation of a certificate, the certificate shall not be renewed or reissued for at least 1 year after revocation and then only on a showing of rehabilitation of the contractor.

(6) The lapse or suspension of a certificate by operation of law or by order of the state fire marshal or a court or its voluntary surrender by a certificate holder does not deprive the state fire marshal of jurisdiction to investigate or act in disciplinary proceedings against the certificate holder.

(7) The filing of a petition in bankruptcy, either voluntarily or involuntarily, or the making of a composition of creditors or the appointment of a receiver for the business of the certificate holder may be considered by the state fire marshal as just cause for suspension of a certificate.

(8) Any person who operates as a contractor without a current certificate, or any person who violates any part of this act, or any rule, decision, order or regulation, direction, demand or requirement of the state fire marshal in relation thereto, or any part or provision thereof, may be enjoined by the courts of the state from any such violation or such unauthorized or unlawful contracting, at the instance of the state fire marshal, the board or any citizen or taxpayer of the state.

Section 16. (1) Nothing in this act limits the power of a municipality or county to regulate the quality and character of work performed by contractors through a system of permits, fees and inspections which are designed to secure compliance with and aid in the implementation of state and local building laws or to enforce other local laws for the protection of the public health and safety.

(2) Nothing in this act limits the power of a municipality or county to adopt any system of permits requiring submission to and approval by the municipality or county of plans and specifications for work to be performed by contractors before commencement of the work.

(3) Any official authorized to issue building or other related permits shall ascertain that the applicant contractor is duly certified before issuing the permit. The evidence shall consist only of the exhibition to him of current evidence of certification.

(4) The state fire marshal shall inform each county and municipal building department, prior to September 1 of each year, of the names of the certified contractors and the status of the certificates.

(5) Notwithstanding any provisions to the contrary in s.235.31, Florida Statutes, relating to prequalification of bidders, any person holding a certificate shall be deemed qualified to participate in any project contemplated by this act.

(6) This act applies to any contractor performing work for the state or any county or municipality. Officers of the state or any county or municipality are required to determine compliance with this act before awarding any contracts for construction, improvement, remodeling or repair.

(7) The state or any county or municipality may require that bids submitted for construction, improvement, remodeling or repair of public buildings be accompanied by evidence that the bidder holds a current certificate.

Section 17. Any contractor who has been regularly engaged in the business of fire protection systems in the state from January 1, 1975, shall be issued a certificate upon payment of the appropriate fee without being required to pass any type of examination. The contractor shall file an application with the state fire marshal for such certificate prior to July 1, 1976, and shall include proof of a current occupational license as a contractor from a county or municipality in the state.

Section 18. The state fire marshal may receive an application on prescribed forms with supporting data and, upon finding of fact supporting the need or justification, the state fire marshal may grant a limited and restricted registration to a contractor not domiciled in the state for one project. Renewal application or registration cannot be granted. During such registration the state fire marshal shall have complete authority to require compliance with this act and other statutes of the state.

Section 19. This act does not apply to owners of property who are building or improving farm outbuildings or one or two family residences on such property for the occupancy or use of such owners and not offered for sale, or owners of property who are building or improving commercial buildings occupied by the owner and his business and not for general public or consumer use.

Section 20. The secretary of state shall notify each county tax collector and each building department of each county and municipality of the adoption of this act before September 1, 1975, and supply each with a summary of the requirements for certification. Each tax collector shall notify each applicant for an occupational license as a contractor of the adoption of this act. The tax collector shall not issue an occupational license to such contractor without proof of a certificate of competency issued by the state fire marshal, except for the year 1975 when proof of an application for such certificate, as required by section 16, is furnished to such tax collector. In the event, however, that the applicant is refused a certificate of competency, such occupational license shall be null and void and cancelled by the appropriate tax collector.

Section 21. This act shall take effect October 1, 1975.

House Amendment 2—On page 1, lines 4 & 5 in title, strike said lines and insert: An act relating to fire prevention; amending s.175.111,

House Amendment 3—On page 1, line 12 in title, after the semi colon “;” insert: adding s.633.021(12)-(17), Florida Statutes, providing definitions; amending s.633.061(6), Florida Statutes, relating to licenses and permits, removing certain exemptions; creating s.633.065, Florida Statutes, providing requirements for installation of fire protective equipment; creating the Florida Fire Safety Board; providing for certification and registration of contractors of fire protection systems; providing fees; providing penalties;

On motions by Senator Deeb, the Senate concurred in House amendments 1, 2 and 3 to SB 551.

SB 551 passed as amended by the House amendments, was ordered engrossed and the action of the Senate was certified to the House. The vote on passage was:

Yeas—31

Brantley	Hair	Peterson	Thomas, P.
Childers, D.	Henderson	Poston	Tobiassen
Childers, W. D.	Holloway	Renick	Trask
Deeb	Johnston	Sayler	Vogt
Firestone	Lane, J.	Scarborough	Ware
Gallen	Lewis	Spicola	Winn
Glisson	MacKay	Stolzenburg	Zinkil
Gordon	McClain	Thomas, J.	

Nays—1

Myers

By unanimous consent Senator Graham was recorded as voting yea.

On motion by Senator MacKay, by two-thirds vote CS for HB 1100 was withdrawn from the Committees on Governmental Operations and Judiciary-Civil and placed on the calendar.

CS for HB 1100—A bill to be entitled An act relating to public officers and employees and candidates for public office; adding a new subsection (4) to s.112.312, Florida Statutes, 1974 Supplement, amending ss.112.317, 112.321(1), 112.322, and 112.324, Florida Statutes, 1974 Supplement, and creating s.112.3241, Florida Statutes; providing for membership and terms of the Commission on Ethics; amending the powers and duties of the commission; providing procedures relating to advisory opinions; providing for complaint procedures; providing for a confidential preliminary investigation; providing for certain judicial proceedings and for judicial review; providing additional penalties; providing an effective date.

—was read the second time by title.

Senators Sayler and MacKay offered the following amendment which was moved by Senator Sayler and adopted:

Amendment 1—On page 8, line 1, strike all of subsection (7)

Senator Henderson moved the following amendment which was adopted:

Amendment 2—On page 9, line 7, insert between “complaint” and “shall”: , unless prohibited by subsection (3) below,

Senator Ware moved the following amendment which was adopted:

Amendment 3—On page 4, lines 29 and 30, strike “~~subject to confirmation by the Senate~~” and insert: subject to confirmation by the Senate

Senator Scarborough moved the following amendment which was adopted:

Amendment 4—On page 4, line 31, strike “Governor shall be a former city or county commissioner” and insert: Governor shall be a former city or county official.

Senator Sayler moved the following amendment which was adopted:

Amendment 5—On page 10, lines 14-23, strike all of lines 14-23 and insert: appropriate committee. If, for any reason, the committee to which the complaint is referred determines that it cannot or should not investigate the complaint, it may return the complaint through its presiding officer to the commission which shall then conduct a full investigation and report its finding to the speaker or the president for appropriate action. Upon request, the commission shall submit a recommendation as to what penalty, if any, should be imposed.

Senators Plante and Myers offered the following amendment which was moved by Senator Myers and adopted:

Amendment 6—On page 10, line 24, after the word “if” insert: in cases pertaining to complaints other than complaints against impeachable officers or members of the legislature,

On motion by Senator Brantley, the rules were waived and time of adjournment was extended to 7:00 p.m.

Senator Ware moved the following amendment which was adopted:

Amendment 7—On page 7, line 15, after the period insert: Witnesses shall be paid mileage and witnesses fees as authorized for witnesses in civil cases.

Senators Wilson and MacKay offered the following amendment which was moved by Senator Wilson:

Amendment 8—On page 5, lines 1—10, strike the comma on line 1 and all of lines 2—10 through “court” and insert: and two members shall be appointed by the president of the senate. Neither the speaker of the house nor president of the senate shall appoint more than one member from the same political party.

Amendment 8 was adopted by the following vote:

Yeas—23

Brantley	Hair	Plante	Trask
Childers, D.	Johnston	Saunders	Vogt
Deeb	Lewis	Sayler	Ware
Dunn	MacKay	Sims	Wilson
Gallen	Myers	Stolzenburg	Winn
Glisson	Peterson	Thomas, J.	

Nays—12

Childers, W. D.	Holloway	Poston	Spicola
Firestone	Lane, J.	Renick	Tobiassen
Henderson	McClain	Scarborough	Zinkil

Senators Wilson and MacKay offered the following amendment which was moved by Senator Wilson and adopted:

Amendment 9—On page 4, strike all of lines 28-29 and insert: by the Governor, no more than two of whom shall be from the same political party,

On motion by Senator MacKay, by two-thirds vote CS for HB 1100 was read the third time by title.

Senator MacKay moved the following amendment which was adopted by two-thirds vote:

Amendment 10—On page 13, line 11, insert new Section 9. and renumber subsequent section:

Section 9. The Ethics Commission is authorized two additional positions to implement the provisions of this act.

The President presiding

Senator Wilson moved the following amendment which was adopted by two-thirds vote:

Amendment 11—On page 6, line 28, strike the period and insert: without naming the person making the request, unless such person consents to the use of his name.

Senator Wilson moved the following amendment which was adopted:

Amendment 12—On page 1, line 12 in title, after the word "commission;" insert: providing additional positions;

On motion by Senator MacKay, CS for HB 1100 as amended was read by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Hair	Plante	Tobiassen
Brantley	Henderson	Poston	Trask
Childers, D.	Holloway	Renick	Vogt
Childers, W. D.	Johnston	Saunders	Ware
Dunn	Lane, J.	Sayler	Wilson
Firestone	Lewis	Sims	Winn
Gallen	MacKay	Spicola	Zinkil
Glisson	McClain	Stolzenburg	
Gordon	Myers	Thomas, J.	
Graham	Peterson	Thomas, P.	

Nays—1

Scarborough

On motion by Senator Tobiassen, the Senate reconsidered the vote by which HB 1329 as further amended passed this day.

Further consideration of HB 1329 was deferred.

On motion by Senator Plante, by two-thirds vote HB 1283 was withdrawn from the Committees on Ways and Means and Transportation.

On motion by Senator Myers, by two-thirds vote HB 2099 was withdrawn from the Committees on Governmental Operations and Judiciary-Civil and placed on the calendar.

HB 2099—A bill to be entitled An act relating to public officers, employees, and candidates for public office; amending s. 11.26(1), Florida Statutes, relating to employees of the Legislature, modifying restrictions on employment; adding subsections (6) and (7) to s.112.311, Florida Statutes, 1974 Supplement; providing additional responsibilities of public officers and employees; providing that public officers and employees shall avoid even the impression of corruptibility; amending s.112.312(1), Florida Statutes, 1974 Supplement, and adding new subsections (4), (7), (11), and (12); expanding the definition of "agency"; defining the terms "commission," "materially

affected," "conflict of interest," and "corruptly"; amending s.112.313, Florida Statutes, 1974 Supplement; defining "public officer"; establishing standards of conduct for public officers and employees relating to conflicting gifts, doing business with one's agency, unauthorized compensation, salary and expenses, misuse of public position, conflicting employment or contractual relationship, disclosure or use of information not generally available to the public, disclosure of specified interests, and employees holding office; removing provisions relating to ownership interests in business entities; amending s.112.3141, Florida Statutes, 1974 Supplement, providing additional standards of conduct for legislative employees; creating s.112.3143, Florida Statutes, providing that public officers shall abstain from voting on certain matters by reason of conflict; creating s.112.3155, Florida Statutes, providing post-employment and post-office-holding restrictions; amending s.112.317, Florida Statutes, 1974 Supplement, providing penalties; creating s.112.3175, Florida Statutes, providing remedies; creating s.112.3185, Florida Statutes, establishing procedural standards with regard to ex parte communications; amending s.286.012, Florida Statutes, relating to voting requirements at meetings of governmental bodies, to conform section references to chapter 112, Florida Statutes; providing for applicability to certain persons holding office on the effective date of the act; repealing s.112.323, Florida Statutes, 1974 Supplement, concerning applicability of the code of ethics to legislators and legislative employees; providing an effective date.

—was read the second time by title.

Senator Sayler moved the following amendment which was adopted:

Amendment 1—On page 10, line 1, strike "prior to qualification" and insert: *along with and as a part of the required qualification papers*

Senator Plante moved the following amendment which was adopted:

Amendment 2—On page 6, line 6, after the word "value" insert: *to the recipient*

Senator Myers moved the following amendments which were adopted:

Amendment 3—On page 6, line 24, after the word "indirectly" insert: *for his own agency*

Amendment 4—On page 7, lines 2 and 3, strike "to any state agency if he is a state officer, or to his own agency if he is a state employee, or, if he is serving as an" and insert: *to his own agency if he is a state officer or employee, or, if he is serving as an*

Amendment 5—On page 10, between lines 21 and 22, insert new subsection (11):

(11) **PROFESSIONAL AND OCCUPATIONAL LICENSING BOARD MEMBERS.**—No officer, director or administrator of a Florida state, county or regional professional or occupational organization or association, while holding such position, shall be eligible to serve as a member of a state examining or licensing board for the profession or occupation.

Senator J. Thomas moved the following amendment which was adopted:

Amendment 6—On page 14 between lines 8 and 9, insert: (7) In any case in which the commission determines that a person has filed a complaint against a public officer or employee with a malicious intent to injure the reputation of such officer or employee and where such complaint is found to be frivolous and without basis in law or fact, the complainant shall be liable for costs incurred by the person complained against. If the complainant fails to voluntarily pay such costs within 30 days following such finding and dismissal of the complaint by the commission, the commission shall forward such information to the Department of Legal Affairs which shall bring a civil action to recover such costs.

Senator MacKay moved the following amendments which were adopted:

Amendment 7—On page 8, line 14, strike "*regularly*" and insert: *continually or frequently recurring*

Amendment 8—On page 14, lines 3—8, strike all of subsection (6) and insert: (6) Any person who willfully discloses or permits to be disclosed his intention to file a complaint on the existence or contents of a complaint which has been filed with the commission or any document, action or proceeding in connection with a confidential preliminary investigation of the commission before such complaint, document, action or proceeding becomes a public record as provided herein shall be guilty of a misdemeanor of the first degree, punishable as provided in s.775.082 or 775.083.

Amendment 9—On page 8, lines 17—21, strike "*a political subdivision of the state, created pursuant to general or special laws, which political subdivision is created as a special purpose vehicle for the development of the locale over which the agency has jurisdiction*" and insert: *that certain kind of special tax district created by general or special laws and limited specifically to constructing, maintaining, managing and financing improvements in the land area over which the agency has jurisdiction, or where the agency has been organized pursuant to chapter 298, Florida Statutes*

Senator McClain moved the following amendment which was adopted:

Amendment 10—On page 1 of amendment 6 after the word "costs" in line 8 and in line 10 insert: *plus reasonable attorney's fees*

Senator MacKay moved the following title amendments which were adopted:

Amendment 11—On page 1, strike all of lines 8—13 and insert: *strictions on employment; adding subsection (6) to s.112.311, Florida Statutes, 1974 Supplement; providing legislative intent;*

Amendment 12—On page 2, strike all of lines 5—10 and insert: *creating s.112.3143, Florida Statutes, providing that pub-*

lic officers shall disclose conflicts of interests; amending s.112.317, Florida

Amendment 13—On page 2, strike all of lines 13—15 and insert: *ing remedies; amend-*

Further consideration of HB 2099 was deferred.

On motion by Senator Brantley, the Senate reconvened as a Court of Impeachment for the purpose of adopting the rules to govern the impeachment trial.

(A separate Journal will be published on all Court of Impeachment proceedings undertaken by the Senate this day.)

ENGROSSING REPORTS

Your Engrossing Clerk has incorporated amendments to—

SB 126	SB 567	SB 777	SB 1345
SB 296	CS for SB 708	SB 781	
SB 554	SB 722	CS for SB 868	

Joe Brown, Secretary

The bills were ordered enrolled.

Your Engrossing Clerk has incorporated amendments to—

CS for SB 245	SB 572	SB 1134	SB 1249
SB 524	SM 1120	SB 1265	

Joe Brown, Secretary

The bills were certified to the House after engrossing.

CO-INTRODUCER

Senator W. D. Childers was recorded as a co-introducer of SB 1245.

The Journal of June 2 was corrected and approved.

The hour of adjournment having arrived, a point of order was called and the Senate adjourned at 7:05 p.m. to convene at 9:00 a.m. June 4, 1975.